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SUBCHAPTER I—NATIONAL PARK SERVICE

§ 1. Service created; director; other employees

Short Title of 1978 Amendment

Pub. L. 95-625, § 1, Nov. 10, 1978, 92 Stat. 3467, provided that: "This Act [which enacted chapter 45 and sections 45f, 230 to 230i, 241g, 396d, 410y-1a, 441e-1, 459c-6b, 460m-15 to 460m-25, 460kk, 471i, and 1285a of this title, amended sections 1a-5, 1a-7, 273f, 282c, 283e, 397 to 397d, 410y-6, 410z, 410z-1, 430mm, 450mm-1,

450qq–4, 459c–1, 459c–5, 459e, 459e–1, 459e–6, 459e–9, 459h–10, 459i, 459i–9, 460*l*–8, 460m–14, 460o–1, 460q–9, 460u–9, 460aa–12, 460bb–1 to 460bb–4, 460ff–1, 460ff–3, 460ff–5, 460gg, 463, 469c, 470t, 698m, 1241, 1242, 1244 to 1247, 1249, 1273, 1274, 1276, 1277, 1283, and 1287 of this title, repealed sections 45a–3 and 688 of this title, enacted provisions set out as notes under sections 1a–5, 45a–1, 45f, 410z, 430nn, 430oo, 431, 461, 602, 688, 1246, 1274, and 2501 of this title, and amended provisions set out as notes under sections 431, 433c, 450bb, 461, and 1132 of this title] may be cited as the 'National Parks and Recreation Act of 1978'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a–1, 1c, 3, 4, 20, 20f, 21b, 45f, 79i, 80d, 81g, 81h, 90c, 108, 111c, 119, 158, 159b, 160f, 197, 201b, 205a, 221b, 222, 230e, 231c, 245, 254, 264, 271d, 272d, 273d, 281d, 282a, 283c, 284a, 291b, 342, 345, 346a–2, 355a, 391b–1, 396b, 396d, 397d, 398c, 401, 403–3, 403b, 404b, 406d–2, 407a, 407q, 408b, 409e, 410b, 410w, 410z–4, 410aa–2, 410bb–1, 410ee, 423h–2, 423*l*, 423o, 426m, 428d–3, 428*o*, 429a–2, 430m, 430w, 430cc, 430hh, 430*ll*, 430ss, 433b, 433*j*, 441c, 442, 445c, 447c, 450, 450e–1, 450n, 450q, 450t, 450y–1, 450y–6, 450bb–1, 450cc–1, 450dd–1, 450ee–1, 450ff–2, 450hh–2, 450mm–3, 450oo–9, 450pp–1, 450qq–3, 459a–1, 459b–6, 459c–4, 459d–4, 459h–4, 459i–5, 459j–4, 460, 460a–2, 460m–5, 460m–12, 460m–15, 460s–5, 460w–5, 460x–5, 460bb–3, 460cc–2, 460dd–3, 460ee, 460ff–3, 460ii–2, 460kk, 698c, 698i, 1133, 1902 of this title; title 30 section 1014; title 40 sections 319c, 803, 804; title 48 section 1705.

§ 1a–1. National park system: administration; declaration of findings and purpose

Congress declares that the national park system, which began with establishment of Yellowstone National Park in 1872, has since grown to include superlative natural, historic, and recreation areas in every major region of the United States, its territories and island possessions; that these areas, though distinct in character, are united through their inter-related purposes and resources into one national park system as cumulative expressions of a single national heritage; that, individually and collectively, these areas derive increased national dignity and recognition of their superb environmental quality through their inclusion jointly with each other in one national park system preserved and managed for the benefit and inspiration of all the people of the United States; and that it is the purpose of this Act to include all such areas in the System and to clarify the authorities applicable to the system. Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, shall be consistent with and founded in the purpose established by section 1 of this title, to the common benefit of all the people of the United States. The authorization of activities shall be construed and the protection, management, and administration of these areas shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.

(As amended Pub. L. 95–250, title I, § 101(b), Mar. 27, 1978, 92 Stat. 166.)

AMENDMENTS

1978—Pub. L. 95–250 provided that the promotion and regulation of the various areas of the National Park System, as defined in section 1c of this title, be consistent with and founded in the purpose established by section 1 of this title, to the common benefit of all the people of the United States, and that the authorization of activities be construed and the protection, management, and administration of these areas be conducted in light of the high public value and integrity of the National Park System and not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.

§ 1a–5. Areas of national significance for potential inclusion in National Park System; investigation and study; transmittal to Congress of report and annual listings of areas, included on Registry of Natural Landmarks and National Register of Historic places, subject to threats of damage; printing as House document; authorization of appropriations

The Secretary of the Interior is directed to investigate, study, and continually monitor the welfare of areas whose resources exhibit qualities of national significance and which may have potential for inclusion in the National Park System. At the beginning of each fiscal year, the Secretary shall transmit to the Speaker of the House of Representatives and to the President of the Senate, comprehensive reports on each of those areas upon which studies have been completed. On this same date, and accompanying such reports, the Secretary shall transmit a listing, in generally descending order of importance or merit, of not less than twelve such areas which appear to be of national significance and which may have potential for inclusion in the National Park System. Threats to resource values, and cost escalation factors shall be considered in listing the order of importance or merit. Such listing may be comprised of any areas heretofore submitted under terms of this section, and which at the time of listing are not included in the National Park System. The Secretary is also directed to transmit annually to the Speaker of the House of Representatives and to the President of the Senate, at the beginning of each fiscal year, a complete and current list of all areas included on the Registry of Natural Landmarks and those areas of national significance listed on the National Register of Historic places which areas exhibit known or anticipated damage or threats to the integrity of their resources, along with notations as to the nature and severity of such damage or threats. Each report and annual listing shall be printed as a House document. For the purposes of carrying out the studies for potential new Park System units and for monitoring the welfare of those resources, there are authorized to be appropriated annually not to exceed $1,000,000. For the purposes of monitoring the welfare and integrity of the national landmarks, there are authorized to be appropriated annually not to exceed $1,500,000.

(As amended Pub. L. 95–625, title VI, § 604(1), Nov. 10, 1978, 92 Stat. 3518.)

AMENDMENTS

1978—Pub. L. 95-625 authorized annual appropriations of $1,000,000 for studies for potential new Park System units and for monitoring the welfare of those resources and $1,500,000 for monitoring the welfare and integrity of the national landmarks.

STUDY OF HISTORICAL CAMDEN, SOUTH CAROLINA, REGARDING ESTABLISHMENT AS UNIT OF NATIONAL PARK SYSTEM; TRANSMITTAL TO PRESIDENT AND CONGRESSIONAL COMMITTEES

Pub. L. 95-629, title IV, § 401, Nov. 10, 1978, 92 Stat. 3640, provided that: "The Secretary of the Interior shall prepare and transmit to the President of the United States, the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a study of Historical Camden, consisting of approximately ninety acres of land in Camden, South Carolina, to determine the feasibility and desirability of establishing such area as a unit of the National Park System. The study shall be transmitted not later than two years following the date on which funds are appropriated for the study and shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any alternatives for the administration and protection of the area."

CROW CREEK VILLAGE ARCHEOLOGICAL SITE, SOUTH DAKOTA; FEASIBILITY/SUITABILITY STUDY; TRANSMITTAL TO CONGRESSIONAL COMMITTEES; COST ESTIMATES; SITE PRESERVATION

Section 512 of Pub. L. 95-625 provided that:

"(a) The Secretary shall prepare and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives within two years from the date of enactment [Nov. 10, 1978], a feasibility/suitability study of the Crow Creek Village archeological site, Buffalo County, South Dakota, as a unit of the National Park System. The study shall include cost estimates for any necessary acquisition, development, operation and maintenance, as well as any feasible alternatives for the administration and protection of the area, including, but not limited to, Federal financial and technical assistance to the State of South Dakota, Buffalo County or other suitable entity.

"(b) Notwithstanding any other provision of law, the Secretary of the Army is directed to take such actions as may be necessary to preserve and protect such site from any adverse impact on the site and to refrain from any activities which might cause such impact until two years from the date of submission of the study by the Secretary."

RIDGELANDS AREA STUDY; CONSULTATION AND COORDINATION; REPORT TO PRESIDENT AND CONGRESS; AUTHORIZATION OF APPROPRIATIONS

Section 602 of Pub. L. 95-625 provided that:

"(a) In order to consider preserving in their natural condition appropriate segments of the Ridgelands east of San Francisco Bay for protection of the area's unique ecology and topography and for public outdoor recreation, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System. The Secretary shall consult with the Secretary of Agriculture, the Chief of Engineers, Department of the Army, and any other appropriate Federal agencies, as well as with the East Bay Regional Park District, the Association of Bay Area Governments, and other State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the Ridgelands. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

"(b) The Secretary shall submit to the President and the Congress of the United States, within one year after the date of enactment of this Act [Nov. 10, 1978], a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

"(1) the scenic, scientific, historic, natural, and outdoor recreation values of the Ridgelands, including their use for walking, hiking, horseback riding, bicycling, swimming, picnicking, camping, forest management, fish and wildlife management, educational exhibiting, and scenic and historic site preservation;

"(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified;

"(3) the relationship of any recommended national park, recreation area, or wilderness area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire San Francisco Bay area;

"(4) alternative means of restoring and preserving the values inherent in the area under present ownership patterns; and

"(5) the development of public land policies consistent with the protection of private open space land.

"(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

OAK CREEK CANYON, YAVAPAI, SOLDIERS WASH-MORMAN CANYON, AND CHIRICAHUA NATIONAL MONUMENT, ARIZONA; STUDIES BY SECRETARIES OF INTERIOR AND AGRICULTURE

Section 605 of Pub. L. 95-625 provided that:

"(a) In recognition of the need for and desirability of protecting the Oak Creek Canyon, Yavapai, and Soldiers Wash-Mormon Canyon areas in Arizona as a unit or units of the National Park System, the Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study to determine a suitable boundary for such unit or units of the System, including the areas referred to herein together with such lands as may be appropriate to provide for their protection and administration as a national monument or other unit of the National Park System. Such study shall be conducted in consultation with appropriate units of local government concerned and the Sedona-Oak Creek Canyon Interagency Task Force. Such study shall take into account existing patterns of use and activities in the area and the possible adverse impacts a National Monument designation in the area would have on multiple use activities important to the local economy.

"(b) The Secretary, in cooperation with the Secretary of Agriculture where national forest lands are involved, shall conduct a study of the boundary of Chiricahua National Monument, Arizona, to determine the appropriate location of a boundary line for additions to the monument which includes such highly scenic features as Cochise Head and which is located to the extent practicable on natural topographic features.

"(c) A report of each study conducted pursuant to subsections (a) and (b) of this section shall be submitted by the Secretary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year following the date on which funds are appropriated for the purpose of the study. Each report shall include a map or other description of the boundary determined as a result of the study, a description of the natural, scenic, and cultural features within the boundary, and the recommendation of the Secretary with respect to such further legislation as may be appropriate."

IRVINE COAST-LAGUNA, CALIFORNIA STUDY

Section 608 of Pub. L. 95-625 provided that:

"(a) In order to consider preserving in its natural condition, the Irvine Coast-Laguna area, California from Newport Beach to Laguna Beach as generally depicted on the map entitled 'Irvine Coast-Laguna Study Area', numbered IRV-90,000, and dated June 1978, and in order to consider protection of the area's unique ecology and topography, its watershed and marine environment, and public outdoor recreation opportunities, the Secretary shall study, investigate, and formulate recommendations on the feasibility and desirability of establishing such area as a unit of the National Park System, such as a park, recreation area, or seashore. The Secretary shall consult with other appropriate Federal agencies, as well as with the appropriate State and local bodies and officials involved, and shall coordinate the study with applicable local and State plans and planning activities relating to the area. Federal departments and agencies are authorized and directed to cooperate with the Secretary and, to the extent permitted by law, to furnish such statistics, data, reports, and other material as the Secretary may deem necessary for purposes of the study.

"(b) The Secretary shall submit to the President and the Congress of the United States, within six months after the date of enactment of this section [Nov. 10, 1978], a report of his findings and recommendations. The report of the Secretary shall contain, but not be limited to, findings with respect to—

"(1) the scenic, scientific, natural, and outdoor recreation values of the Irvine Coast-Laguna area;

"(2) the type of Federal, State, and local programs that are feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values identified; and

"(3) the relationship of any recommended national park, recreation area, or seashore area to existing or proposed Federal, State, and local programs to manage in the public interest the natural resources of the entire Irvine Coast-Laguna area.

"(c) There is hereby authorized to be appropriated $50,000 to carry out the provisions of this section."

§ 1a-7. National Park System development program

[*See main edition for text of* (a)]

(b) General management plans; preparation and revision by Director of National Park Service; list to Congress; contents

General management plans for the preservation and use of each unit of the National Park System, including areas within the national capital area, shall be prepared and revised in a timely manner by the Director of the National Park Service. On January 1 of each year, the Secretary shall submit to the Congress a list indicating the current status of completion or revision of general management plans for each unit of the National Park System. General management plans for each unit shall include, but not be limited to:

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

(c) Concession leases and contracts; proposed awards; transmittal to congressional committees

The Secretary of the Interior shall hereafter transmit to the Committees on Interior and Insular Affairs all proposed awards of concession leases and contracts involving a gross annual business of $100,000 or more, or of five years or more in duration (including renewals thereof), and all proposed rules and regulations relating thereto, sixty days before such awards are made or such rules and regulations are promulgated.

(As amended Pub. L. 95-625, title VI, § 604(3), (4), Nov. 10, 1978, 92 Stat. 3518, 3519.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-625, § 604(3), in revising the text, substituted provisions for preservation and use of units of the National Park Service for prior provision for development of the units and for submission of an annual list to Congress on January 1 for prior provision for transmission of the plans to the Committees on Interior and Insular Affairs, provided for revision of the plans in a timely manner, added items (1) to (4) and deleted prior items covering (1) the facilities which the Director found necessary to accommodate the health, safety, and recreation needs of the visiting public, including provision of appropriate facilities under Act Oct. 9, 1965, 79 Stat. 969 [Pub. L. 89-249; (2) the location and estimated cost of all the facilities; and (3) the projected need for any additional facilities required for the unit.

Subsec. (c). Pub. L. 95-625, § 604(4), substituted "or of five years or more" for "or exceeding five years".

§ 1c. General administration provisions; system defined; particular areas

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1a-1, 459b-6, 459c-6 of this title.

§ 2. National parks, reservations, and monuments; supervision

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1c, 3, 4, 20, 20f, 21b, 45f, 79i, 80d, 81g, 81h, 90c, 108, 111c, 119, 158, 159b, 160f, 197, 201b, 205a, 221b, 222, 230e, 231c, 245, 254, 264, 271d, 272d, 273d, 281d, 282a, 283c, 284a, 291b, 342, 345, 346a-2, 355a, 391b-1, 396b, 396d, 397d, 401, 403-3, 403b, 404b, 406d-2, 407a, 408b, 409e, 410b, 410w, 410z-4, 410ee, 423h-2, 423*l*, 423o, 426m, 428d-3, 428o, 429a-2, 430m, 430cc, 430hh, 430*ll*, 430ss, 433b, 433j, 441c, 442, 445c, 447c, 450, 450e-1, 450q, 450t, 450y-1, 450y-6, 450bb-1, 450cc-1, 450dd-1, 450ee-1, 450ff-2, 450hh-2, 450mm-3, 450oo-9, 450pp-1, 450qq-3, 459a-1, 459b-6, 459c-6, 459d-4, 459h-4, 459i-5, 460, 460m-5, 460m-12, 460m-15, 460s-5, 460w-5, 460bb-3, 460cc-2, 460dd-3, 460ee, 460ii-2, 460kk, 698c, 698i, 1133 of this title; title 30 section 1014; title 40 sections 319c, 803, 804; title 48 section 1705.

§ 3. Rules and regulations of national parks, reservations, and monuments; timber; leases

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1c, 4, 20, 20f, 21b, 45f, 22, 47-1, 61, 63, 79i, 80d, 81g, 81h, 90c, 108, 111c, 112, 119, 158, 159b, 160f, 195, 197, 201b, 205a, 221b, 222, 230e, 231c, 245, 254, 264, 271d, 272d, 273d, 281d, 282a, 283c, 284a, 291b, 342, 345, 346a-2, 355a, 391b-1, 394, 396b, 396d, 397d, 401, 403-3, 403b, 404b, 406d-2, 407a, 408b, 409e, 410b, 410w, 410z-4, 410ee, 423h-2, 423*l*, 423o, 426m, 428d-3, 428o, 429a-2, 430m, 430cc, 430hh, 430*ll*, 430ss, 433b, 433j, 441c, 442, 445c,

447c, 450, 450e-1, 450q, 450t, 450y-1, 450y-6, 450bb-1, 450cc-1, 450dd-1, 450ee-1, 450ff-2, 450hh-2, 450mm-3, 450oo-9, 450pp-1, 450qq-3, 459a-1, 459b-6, 459c-6, 459d-4, 459h-4, 459i-5, 460, 460m-5, 460m-12, 460m-15, 460s-5, 460w-5, 460bb-3, 460cc-2, 460dd-3, 460ee, 460ii-2, 460kk, 698c, 698i, 1133 of this title; title 30 section 1014; title 40 sections 303c, 319c, 803, 804; title 48 section 1705.

§ 4. Rights-of-way through public lands

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1c, 3, 20, 20f, 21b, 45f, 79i, 80d, 81g, 81h, 90c, 108, 111c, 119, 158, 159b, 160f, 197, 201b, 205a, 221b, 222, 230e, 231c, 245, 254, 264, 271d, 272d, 273d, 281d, 282a, 283c, 284a, 291b, 342, 345, 346a-2, 355a, 391b-1, 396b, 396d, 397d, 401, 403-3, 403b, 404b, 406d-2, 407a, 408b, 409e, 410b, 410w, 410z-4, 410ee, 423h-2, 423*l*, 423*o*, 426m, 428d-3, 428*o*, 429a-2, 430m, 430cc, 430hh, 430*ll*, 430ss, 433b, 433j, 441c, 442, 445c, 447c, 450, 450e-1, 450q, 450t, 450y-1, 450y-6, 450bb-1, 450cc-1, 450dd-1, 450ee-1, 450ff-2, 450hh-2, 450mm-3, 450oo-9, 450pp-1, 450qq-3, 459a-1, 459b-6, 459c-6, 459d-4, 459h-4, 459i-5, 460, 460m-5, 460m-12, 460m-15, 460s-5, 460w-5, 460bb-3, 460cc-2, 460dd-3, 460ee, 460ii-2, 460kk, 698c, 698i, 1133 of this title; title 30 section 1014; title 40 sections 319c, 803, 804; title 48 section 1705.

§ 18b. Advisory committees for promotion of tourist travel; expenses

TERMINATION OF CIVIL AERONAUTICS BOARD AND TRANSFER OF CERTAIN FUNCTIONS

All functions, powers, and duties of the Civil Aeronautics Board were terminated or transferred by section 1551 of Title 49, Transportation, effective in part on Dec. 31, 1981, in part on Jan. 1, 1983, and in part on Jan. 1, 1985.

SUBCHAPTER IV—CONCESSIONS FOR ACCOMMODATIONS, FACILITIES, AND SERVICES IN AREAS ADMINISTERED BY NATIONAL PARK SERVICE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1a-7, 1c, 251g, 2302 of this title.

SUBCHAPTER VI—SEQUOIA AND YOSEMITE NATIONAL PARKS

§ 41. Sequoia National Park

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 45f, 471d of this title.

§ 43. Sequoia National Park; rules and regulations; leases; fish and game; trespassers

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 41, 45f of this title.

§ 45a-1. Addition of lands authorized

ELECTRIC POWER DEVELOPMENT PERMITS

Pub. L. 93-522, Dec. 14, 1974, 88 Stat. 1660, as amended by Pub. L. 95-625, title III, § 314(d)(3), Nov. 10, 1978, 92 Stat. 3482, provided:

[See main edition for text of secs. 1 to 4]

Sec. 5. Notwithstanding any other provision of law, any federally owned lands incorporated within the boundaries of Sequoia National Park subsequent to the date of enactment of this Act, which entail project works, developments, lands, or facilities which are components of Federal Power Commission Project Numbered 298, shall be subject to all provisions of this Act."

§ 45a-3. Repealed. Pub. L. 95-625, title III, § 314(g), Nov. 10, 1978, 92 Stat. 3483

Section, Pub. L. 85-648, Aug. 14, 1958, 72 Stat. 604, authorized addition of certain lands to the Sequoia National Game Refuge and exclusion of such lands from the Sequoia National Park, now made available for purposes of management of Sequoia National Park as provided for in section 45f(b)(2) of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective upon the transfer of abolished Sequoia National Game Refuge by the Secretary of Agriculture to the administrative jurisdiction of the Secretary under section 45f(b)(2) of this title, see section 314(g) of Pub. L. 95-625, set out in part as an Effective Date of Repeal note under section 688 of this title.

§ 45f. Mineral King Valley addition authorized.

(a) Statement of purpose

It is the purpose of this section to—

(1) assure the preservation for this and future generations of the outstanding natural and scenic features of the area commonly known as the Mineral King Valley and previously designated as the Sequoia National Game Refuge; and

(2) enhance the ecological values and public enjoyment of such area by adding such area to the Sequoia National Park.

(b) Drawing copy, availability; boundary revisions; notification of Congressional committees, publication in Federal Register; abolition and transfer of Sequoia National Game Refuge to administrative jurisdiction of Secretary

(1) In order to add to the Sequoia National Park (hereinafter in this section referred to as the "park") a certain area known as Mineral King Valley possessing unique natural and scenic values, there is hereby established as part of such park all lands, waters, and interests therein, constituting approximately sixteen thousand two hundred acres designated before November 10, 1978, as the Sequoia National Game Refuge and as depicted on the drawing entitled "Boundary Map, Sequoia-Kings Canyon National Park", numbered 102-90,000 and dated April 1975. A copy of such drawing shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary is authorized to make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(2) The Sequoia National Game Refuge is hereby abolished and the Secretary of Agriculture shall transfer, without consideration, to the administrative jurisdiction of the Secretary, the area constituting such refuge, and any unexpended funds available for purposes of management of the refuge shall be available for purposes of management of the park.

(c) Acquisition of property; place and manner; owner's right of use and occupancy for fixed term of years or life; election of term; fair market value; termination; notification; incompatible commercial uses; unitary parcels; access road, right-of-way, and protective measures; hardship sale offers; limitation of authority; State donated lands; report to Congressional committees

(1) Within the boundaries of the area added to the park pursuant to this section, the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, exchange, or transfer from other Federal departments or agencies.

(2) Where the private use of any property acquired pursuant to this subsection would, in the judgment of the Secretary, be compatible with the purposes of this section, the Secretary may, as a condition of such acquisition, permit the owner or owners of such property to retain for themselves and their successors or assigns rights of use and occupancy. Such rights of use and occupancy shall be for not more than twenty-five years or for a term ending at the death of the owner or his or her spouse, whichever is later. The owner shall reserve such rights and elect the term to be reserved on the date of acquisition of the property. Except for so much of the property as is donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

(3) A right of use and occupancy retained pursuant to paragraph (2) may be terminated by the Secretary upon his determination that the property or any portion thereof is being used in a manner which is incompatible with the purposes of this section. Such right shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired as of the date of such tender. In the case of any property which was used for noncommercial purposes during the ten calendar years immediately preceding November 10, 1978, the commercial use of such property subsequent to November 10, 1978, shall be treated as incompatible with the purposes of this section. In the case of any property which was used for commercial purposes at any time during the ten calendar years immediately preceding November 10, 1978, any substantial change or expansion of such commercial use subsequent to November 10, 1978, without the express approval of the Secretary shall be treated as incompatible with such purposes.

(4) In exercising his authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the park to sell such property if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship. Nothing in this section, or in any other provision of law, shall prevent the Secretary from exercising his authority to acquire property referred to in this subsection at any time after November 10, 1978.

(5) If any individual tract or parcel of land acquired is partly inside and partly outside the boundaries of the park the Secretary may, in order to minimize the payment of severance damages, acquire the whole of the tract or parcel.

(6) If the management plan prepared under subsection (e) of this section provides for improved access to the area added to the park under this section, the Secretary is authorized to acquire, by donation, purchase with donated or appropriated funds, exchange or transfer from other Federal departments or agencies, the area comprising the road from State Route 198 to, and within, the Mineral King Valley together with a right-of-way for such road of a width sufficient to include improvements to the road and all bridges, ditches, cuts, and fills appurtenant thereto, but not exceeding a maximum average width of two hundred feet. Property acquired from the State or any political subdivision thereof may be acquired by donation only. With regard to routes of access to and within the Mineral King Valley, the Secretary shall take such measures as are necessary to protect against the effects of siltation on the ecosystem of the park.

(7) The Secretary shall report to the committees of the Congress named in subsection (b)(1) of this section the action taken by him pursuant to this subsection. Such report shall contain information sufficient to inform such committees of—

(A) the acquisitions made by him pursuant to this subsection during the period covered by such report;

(B) his reasons why all of such property authorized to be acquired and not so acquired as of the date of such report, if any, have not been acquired; and

(C) his schedule of a timetable for the acquisition of such property referred to in subparagraph (B).

Such report shall be submitted before the expiration of the second fiscal year beginning after the date on which the comprehensive management plan is submitted to the committees of Congress pursuant to subsection (e) of this section.

(d) Administration; statutory authorities applicable; leases or permits: renewals or extensions, review; termination

(1) The area added to the park by this section shall be administered in accordance with this section and the provisions of law generally applicable to units of the National Park System including sections 1, 2 to 4, 41, and 43 of this title. Any other statutory authority available to the Secretary for the conservation and management of wildlife, wildlife habitat, and natural resources may be utilized to the extent he finds such authority will further the purposes of this section.

(2)(A) Except in the case of a lease or permit which the Secretary determines to be incompatible with the administration of the park pursuant to this section, any lease or permit on Federal land within the area added to the park under this section which is in effect immediately before November 10, 1978, shall continue in

effect pursuant to its terms and conditions following the expansion of the park under this section.

(B) In the case of a lease or permit which is continued under subparagraph (A), upon notice to the Secretary by the lessee or permittee of his intention to seek renewal or extension of such lease or permit, the lease or permit shall be reviewed by the Secretary, and may be renewed or extended for an additional period of five years. Any such lease or permit shall be reviewed at the end of such renewal or extension period and may also be renewed or extended in the same manner for additional five-year periods thereafter. Any renewals or extensions of leases or permits shall be granted only to those persons who were lessees or permittees of record on November 10, 1978, and any such lease or permit shall provide that the lease or permit may be terminated by the Secretary at any time if the Secretary determines that such lease or permit is incompatible with the administration of the park pursuant to this section or that the land is needed for park purposes.

(e) Comprehensive management plan; submission to Congressional committees; preparation considerations; public participation; advance notice: publication in newspapers and Federal Register, other communication; cooperation; consultation

(1) Within two years from November 10, 1978, the Secretary, in cooperation with the State of California, shall develop and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a comprehensive management plan for the area added to the park under this section. In the preparation of such plan, the Secretary shall give appropriate consideration to the need for the development of additional recreational opportunities and other public uses which are consistent with sound environmental management of the area and the policies of the National Park Service.

(2)(A) In preparing the comprehensive management plan required by this subsection and in preparing any subsequent revision of such plan, the Secretary shall provide for full public participation and shall consider the comments and views of all interested agencies, organizations, and individuals.

(B) For purposes of insuring such full public participation, the Secretary shall provide reasonable advance notice to State and local governments, interested Federal agencies, private organizations, and the general public of hearings, workshops, meetings, and other opportunities available for such participation. Such notice shall be published in newspapers of general circulation in the localities affected by the development and management of the park, published in the Federal Register, and communicated by other appropriate means. The Western Regional Advisory Committee of the National Park Service (or a subcommittee thereof) shall also be utilized for purposes of facilitating public involvement.

(C) The Secretaries or Directors of all Federal departments, agencies, and commissions having a relevant expertise are hereby authorized and directed to cooperate with the Secretary in his development of such plan and to make such studies as the Secretary may request on a cost reimbursable basis.

(D) In preparing the comprehensive management plan required by this subsection, the Secretary shall consider technical information and other pertinent data assembled or produced by field studies or investigations conducted separately or jointly by the technical and administrative personnel of the Federal and State agencies involved in order to insure the permanent conservation of wildlife within the area added to the park by this section. Except in emergencies, rules and regulations pertaining to the management of wildlife within the area added to the park by this section shall be put into effect only after consultation with the State of California.

(f) Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary for the acquisition of land and interests therein described in this section.

(g) Skiing prohibition

The Congress recognizes that the Mineral King Valley area has outstanding potential for certain year-round recreational opportunities, but the development of permanent facilities for downhill skiing within the area would be inconsistent with the preservation and enhancement of its ecological values.

(Pub. L. 95-625, title III, § 314(a)-(d)(2), (e), (f), (h), Nov. 10, 1978, 92 Stat. 3479, 3482, 3483.)

REFERENCES IN TEXT

This section, referred to in text, other than as appearing with a reference to a subsection of this section, means section 314 of Pub. L. 95-625, which in addition to enacting this section, repealed sections 45a-3 and 688 of this title, enacted provisions set out as a note under section 688 of this title, and amended provisions set out as a note under section 45a-1 of this title.

CODIFICATION

Subsec. (g) of this section in the original was subsec. (h) but was editorially redesignated as subsec. (g) for purposes of codification.

SUBCHAPTER VII—REDWOOD NATIONAL PARK

§ 79b. Park area

(a) Boundaries; maps; maximum acreage

The area to be included within the Redwood National Park is that generally depicted on the maps entitled "Redwood National Park," numbered NPS-RED-7114-A and NPS-RED-7114-B, and dated September 1968, and the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California," numbered 167-80005-D and dated March 1978, copies of which maps shall be kept available for public inspection in the offices of the National Park Service, Department of the Interior, and shall be filed with appropriate officers of Del Norte and Humboldt Counties. The Secretary of the Interior (hereinafter referred to as the "Secretary") may from time to time, with a view to carrying out the purpose of this subchapter and with particular atten-

tion to minimizing siltation of the streams, damage to the timber, and assuring the preservation of the scenery within the boundaries of the national park as depicted on said maps, modify said boundaries, giving notice of any changes involved therein by publication of a revised drawing or boundary description in the Federal Register and by filing said revision with the officers with whom the original maps were filed, but the acreage within said park shall at no time exceed one hundred and six thousand acres, exclusive of submerged lands and publicly owned highways and roads.

(b) Highways and roads

The Secretary is authorized to acquire all or part of existing publicly owned highways and roads within the boundaries of the park as he may deem necessary for park purposes. Until such highways and roads have been acquired, the Secretary may cooperate with appropriate State and local officials in patroling and maintaining such roads and highways.

(c) Park protection zone

Within the area outside the boundaries of Redwood National Park indicated as the "Park Protection Zone" on the map entitled "Proposed Additions, Redwood National Park, California", numbered 167-80005-D and dated March 1978, the Secretary is authorized to acquire lands and interests in land: *Provided*, That lands may be acquired from a willing seller or upon a finding by the Secretary that failure to acquire all or a portion of such lands could result in physical damage to park resources and following notice to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Any lands so acquired shall be managed in a manner which will maximize the protection of the resources of Redwood National Park, and in accordance with the Act of October 21, 1976 (90 Stat. 2473) [43 U.S.C. 1701 et seq.]. Acquisition of a parcel of land under the authority of this subsection shall not as a result of such acquisition diminish the right of owners of adjacent lands to the peaceful use and enjoyment of their land and shall not confer authority upon the Secretary to acquire additional lands except as provided in this subsection.

(As amended Pub. L. 95-250, title I, § 101(a)(1), (2), Mar. 27, 1978, 92 Stat. 163.)

REFERENCES IN TEXT

The Act of October 21, 1976 (90 Stat. 2743), referred to in subsec. (c), is Pub. L. 94-579, Oct. 21, 1976, 90 Stat. 2743, as amended, known as the Federal Land Policy and Management Act of 1976. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 43, Public Lands, and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-250, § 101(a)(1), (2), inserted "and the area indicated as 'Proposed Additions' on the map entitled 'Additional Lands, Redwood National Park, California', numbered 167-80005-D and dated March 1978," following "and dated September 1968," and substituted "one hundred and six thousand acres, exclusive of submerged lands and publicly owned highways and roads" for "fifty-eight thousand acres, exclusive of submerged lands".

Subsec. (b). Pub. L. 95-250, § 101(a)(2), struck out "by donation only" after "The Secretary is authorized to acquire".

Subsec. (c). Pub. L. 95-250, § 101(a)(2), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79c, 79f, 79k, 79m of this title.

§ 79c. Acquisition of land

(a) Authority of Secretary; administrative sites; manner and place; donation of State lands; reverters and other conditions

The Secretary is authorized to acquire lands and interests in land within the boundaries of the Redwood National Park and, in addition thereto, not more than ten acres outside of those boundaries for an administrative site or sites. Such acquisition may be by donation, purchase with appropriated or donated funds, exchange, or otherwise, but lands and interests in land owned by the State of California may be acquired only by donation which donation of lands or interest in lands may be accepted in the discretion of the Secretary subject to such preexisting reverters and other conditions as may appear in the title to these lands held by the State of California, and such other reverters and conditions as may be consistent with the use and management of the donated lands as a portion of Redwood National Park. Notwithstanding any other provision of law, the Secretary may expend appropriated funds for the management of and for the construction, design, and maintenance of permanent improvements on such lands and interests in land as are donated by the State of California in a manner not inconsistent with such reverters and other conditions.

(b) Vested and possessory rights in certain real property; termination of operations; removal of equipment, facilities, and personal property; down tree personal property; acquired roads; just compensation; payment; jurisdiction; acreage limitation; notice

(1) Effective on October 2, 1968, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the park boundaries designated in maps NPS-RED-7114-A and NPS-RED-7114-B and effective on March 27, 1978, there is hereby vested in the United States all right, title, and interest in, and the right to immediate possession of, all real property within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California," numbered 167-80005-D and dated March 1978, and all right, title, and interest in, and the right to immediate possession of the down tree personal property (trees severed from the ground by man) severed prior to January 1, 1975, or subsequent to January 31, 1978, within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California," numbered 167-80005-D and dated March 1978, except real property owned by the State of California or a political subdivision thereof and except as provided in paragraph (3) of this subsection. The

Secretary shall allow for the orderly termination of all operations on real property acquired by the United States under this subsection, and for the removal of equipment, facilities, and personal property therefrom.

Down tree personal property severed subsequent to December 31, 1974, and prior to February 1, 1978 may be removed in accordance with applicable State and Federal law, or other applicable licenses, permits, and existing agreements, unless the Secretary determines that the removal of such down timber would damage second growth resources or result in excessive sedimentation in Redwood Creek: *Provided, however,* That down timber lying in stream beds may not be removed without permission of the Secretary: *Provided,* That such removal shall also be subject to such reasonable conditions as may be required by the Secretary to insure the continued availability of raw materials to Redwoods United, Incorporated, a nonprofit corporation located in Manila, California.

The Secretary shall permit, at existing levels and extent of access and use, continued access and use of each acquired segment of the B line, L line, M line, and K and K roads by each current affected woods employer or its successor in title and interest: *Provided,* That such use is limited to forest and land management and protection purposes, including timber harvesting and road maintenance. The Secretary shall permit, at existing levels and extent of access and use, continued access and use of acquired portions of the Bald Hills road by each current affected woods employer or its successor in title and interest: *Provided further,* That nothing in this sentence shall diminish the authority of the Secretary to otherwise regulate the use of the Bald Hills road.

(2) The United States will pay just compensation to the owner of any real property taken by paragraph (1) of this subsection. Such compensation shall be paid either: (A) by the Secretary of the Treasury from money appropriated from the Land and Water Conservation Fund, including money appropriated to the Fund pursuant to section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended [16 U.S.C. 460*l*-7(b)] subject to the appropriation limitation in section 79j of this title, upon certification to him by the Secretary of the agreed negotiated value of such property, or the valuation of the property awarded by judgment, including interest at the rate of 6 per centum per annum from the date of taking the property to the date of payment therefor; or (B) by the Secretary, if the owner of the land concurs, with any federally owned property available to him for purposes of exchange pursuant to the provisions of section 79e of this title; or (C) by the Secretary using any combination of such money or federally owned property. Any action against the United States with regard to the provisions of this subchapter and for the recovery of just compensation for the lands and interests therein taken by the United States, and for the down tree personal property taken, shall be brought in the United States district court for the district where the land is located without regard to the amount claimed. The United States may initiate proceedings at any time seeking a determination of just compensation in the district court in the manner provided by sections 1358 and 1403 of title 28 and may deposit in the registry of the court the estimated just compensation, or a part thereof, in accordance with the procedure generally described by section 258a of title 40. Interest shall not be allowed on such amounts as shall have been paid into the court. In the event that the Secretary determines that the fee simple title to any property (real or personal) taken under this section is not necessary for the purposes of this subchapter, he may, with particular attention to minimizing the payment of severance damages and to allow for the orderly removal of down timber, revest title to such property subject to such reservations, terms, and conditions, if any, as he deems appropriate to carry out the purposes of this subchapter, and may compensate the former owner for no more than the fair market value of the rights so reserved, except that the Secretary may not revest title to any property for which just compensation has been paid; or, the Secretary may sell at fair market value without regard to the requirements of the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.], such down timber as in his judgment may be removed without damage to the park, the proceeds from such sales being credited to the Treasury of the United States. If the State of California designates a right-of-way for a bypass highway around the eastern boundary of Prairie Creek Redwood State Park prior to October 1, 1984, the Secretary is authorized and directed to acquire such lands or interests in lands as may be necessary for such a highway and, subject to such conditions as the Secretary may determine are necessary to assure the adequate protection of Redwood National Park, shall thereupon donate the designated right-of-way to the State of California for a new bypass highway from a point south of Prairie Creek Redwood State Park through the drainage of May Creek and Boyes Creek to extend along the eastern boundary of Prairie Creek Redwood State Park within Humboldt County. Such acreage as may be necessary in the judgment of the Secretary for this conveyance, and for a buffer thereof, shall be deemed to be a publicly owned highway for purposes of section 79b(a) of this title effective on March 27, 1978.

[*See main edition for text of (3), (c) and (d)*]

(e) Timber, soil, and stream protection; "interests in land" defined; notice to Congress of intended action, costs, and benefits requisite for acquisitions, contracts, or cooperative agreements; availability of funds; authorization of appropriations; rehabilitative activities

In order to afford as full protection as is reasonably possible to the timber, soil, and streams within the boundaries of the park, the Secretary is authorized, by any of the means set out in subsections (a) and (c) of this section, to acquire interests in land from, and to enter into contracts and cooperative agreements with, the owners of land on the periphery of the park and on watersheds tributary to streams within the park designed to assure that the conse-

quences of forestry management, timbering, land use, and soil conservation practices conducted thereon, or of the lack of such practices, will not adversely affect the timber, soil, and streams within the park as aforesaid. As used in this subsection, the term "interests in land" does not include fee title unless the Secretary finds that the cost of a necessary less-than-fee interest would be disproportionately high as compared with the estimated cost of the fee. No acquisition other than by donation shall be effectuated and no contract or cooperative agreement shall be executed by the Secretary pursuant to the provisions of this subsection until after he has notified the President of the Senate and the Speaker of the House of Representatives of his intended action and of the costs and benefits to the United States involved therein. Effective on March 27, 1978, there are made available from the amounts provided in section 79j of this title or as may be hereafter provided such sums as may be necessary for the acquisition of interests in land. Effective on October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the implementation of contracts and cooperative agreements pursuant to this subsection: *Provided*, That it is the express intent of Congress that the Secretary shall to the greatest degree possible insure that such contracts and cooperative agreements provide for the maximum retention of senior employees by such owners and for their utilization in rehabilitation and other efforts. The Secretary, in consultation with the Secretary of Agriculture, is further authorized, pursuant to contract or cooperative agreement with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, to initiate, provide funds, equipment, and personnel for the development and implementation of a program for the rehabilitation of areas within and upstream from the park contributing significant sedimentation because of past logging disturbances and road conditions, and, to the extent feasible, to reduce risk of damage to streamside areas adjacent to Redwood Creek and for other reasons: *Provided further*, That authority to make payments under this subsection shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts. Such contracts or cooperative agreements shall be subject to such other conditions as the Secretary may determine necessary to assure the adequate protection of Redwood National Park generally, and to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties in northern California. The Secretary shall undertake and publish studies on erosion and sedimentation originating within the hydrographic basin of Redwood Creek with particular effort to identify sources and causes, including differentiation between natural and man-aggravated conditions, and shall adapt his general management plan to benefit from the results of such studies. The Secretary, or the Secretary of Agriculture, where appropriate, shall also manage any additional Federal lands under his jurisdiction that are within the hydrographic basin of Redwood Creek in a manner which will minimize sedimentation which could affect the park, and in coordination with plans for sediment management within the basin. To effectuate the provisions of this subsection, and to further develop scientific and professional information and data concerning the Redwood Forest ecosystem, and the various factors that may affect it, the Secretary may authorize access to the area subject to this subsection by designated representatives of the United States.

(As amended Pub. L. 95-250, title I, § 101(a)(3)-(6), Mar. 27, 1978, 92 Stat. 163-165.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in subsecs. (b)(2) and (c), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to disposal of Government property are classified to chapter 10 (§ 471 et. seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40 and Tables.

Section 79b(a) of this title, referred to in subsec. (b)(2), in the original read "section 101(a)(2) of this amendment" meaning section 101(a)(2) of Pub. L. 95-250, which amended section 79b(a) of this title.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-250, § 101(a)(3), added provisions authorizing the Secretary to accept donations of lands owned by the State of California subject to such preexisting reverters and other conditions as may appear in the title to those lands and such other reverters and conditions as may be consistent with the use and management of the donated lands as a portion of the Redwood National Park and further authorizing the Secretary to expend appropriated funds for permanent improvements on the donated lands in a manner not inconsistent with the reverters and other conditions.

Subsec. (b)(1). Pub. L. 95-250, § 101(a)(4), expanded existing provisions, effective Mar. 27, 1978, by adding references to the vesting in the United States of all right, title, and interest in, and right to immediate possession of, all real property, and to immediate possession of down tree personal property, within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California", numbered 167-80005-D and dated March 1978, and added two unlettered paragraphs relating, respectively, to the removal of down tree personal property and to the continued access and use of acquired roads.

Subsec. (b)(2). Pub. L. 95-250, § 101(a)(5), struck out provision for the bringing of actions in the Court of Claims, as provided in section 1491 of title 28, against the United States for the recovery of just compensation for the land and interests therein taken by the United States and added provisions directing that such actions, as well as actions for down tree personal property taken, be brought in the United States district court for the district where the land is located without regard to the amount claimed, authorizing the United States to initiate proceedings to determine just compensation and to deposit the estimated just compensation in the registry of the court, making provision for the revestment of title in cases where the Secretary determines that fee simple title is not necessary, and otherwise relating to the right-of-way for a new bypass highway.

Subsec. (e). Pub. L. 95-250, § 101(a)(6), substituted "until after he has notified the President of the Senate" for "until sixty days after he has notified the

President of the Senate" in the existing provisions and added provisions relating to the availability of funds for the acquisition of interests in land, the implementation of contracts and cooperative agreements pursuant to this subsection, and rehabilitative activities generally designed to minimize erosion and sedimentation in ways designed to assure adequate protection for Redwood National Park, contribute to the economic revival of Del Norte and Humboldt Counties in northern California, and provide employment opportunities to individuals affected by taking of land and interests in land.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79c-1, 79e, 79f, 79k, 79m of this title.

§ 79c-1. Vesting in United States of all right, title, etc., in real property and down tree personal property in additions to Park; effective date; authorization of appropriations

Notwithstanding any provision of this subchapter the vesting in the United States of all right, title, and interest in, and the right to immediate possession of, all real property and all down tree personal property within the area indicated as "Proposed Additions" on the map entitled "Additional Lands, Redwood National Park, California," numbered 167-80005-D and dated March 1978, as established by section 79c(b)(1) of this title, shall be effective on March 27, 1978. The provisions of section 79c(b)(3) of this title, shall also relate to the effective date of this section. From the appropriations authorized for fiscal year 1978 and succeeding fiscal years such sums as may be necessary may be expended for the acquisition of lands and interests in lands, and down tree personal property, authorized to be acquired, or acquired, pursuant to the provisions of this Act.

(Pub. L. 95-250, title I, § 101(c), Mar. 27, 1978, 92 Stat. 166.)

REFERENCES IN TEXT

Section 79c(b)(1) of this title, referred to in text in the original read "subsection (a)(4) of the first section of this Act" meaning section 101(a)(4) of Pub. L. 95-250, which amended section 79c(b)(1) of this title.

This Act, referred to in text, means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted this section and sections 79k to 79q of this title, amended sections 1a-1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

The effective date of this section, referred to in text, probably means the date of enactment of section 101 of Pub. L. 95-250, which was approved Mar. 27, 1978.

CODIFICATION

Section was not enacted as a part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

§ 79k. Mitigation of adverse economic impacts to local economy resulting from additions to Park; analysis of Federal actions necessary or desirable; consultations and considerations by Secretaries concerned; reports to Congress; implementation of programs; funding requirements

(a) The Secretary, in consultation with the Secretaries of Agriculture, Commerce, and Labor, shall conduct an analysis of appropriate Federal actions that may be necessary or desirable to mitigate any adverse economic impacts to public and private segments of the local economy, other than the owners of properties taken by this Act, as a result of the addition of property to Redwood National Park under sections 79b and 79c of this title. The Secretaries shall also consider the benefits of making grants or entering into contracts or cooperative agreements with the State of California or Del Norte and Humboldt Counties as provided by subsection (b) of this section for the purpose of development and implementation of a program of forest resource improvement and utilization, including, but not limited to, reforestation, erosion control, and other forest land conservation measures, fisheries and fish and wildlife habitat improvements, and wood energy facilities. Not later than January 1, 1979, the Secretary shall submit to the Speaker of the House of Representatives and the President of the Senate a report of his analysis, including his recommendations with respect to actions that should be taken to mitigate any significant short-term and long-term adverse effects on the local economy caused by such addition.

(b) The Secretary of Commerce and the Secretary of Labor, in consultation with the Secretary, and pursuant to his study, shall apply such existing programs as are necessary and appropriate to further mitigate identified employment and other adverse economic impacts on public and private segments of the local economy, other than with regard to the payment of just compensation to the owners of properties taken by this Act and by this subchapter. In addition to the land rehabilitation and employment provisions of this Act, which should have a substantial positive economic effect on the local economy, the Secretaries of Commerce and Labor are further authorized and directed to implement existing authorities to establish employment programs, pursuant to such grants, contracts and cooperative agreements with agencies of the Federal Executive, the State of California, any political or governmental subdivision thereof, any corporation, not-for-profit corporation, private entity or person, for the development and implementation of such programs, as, in the discretion of the Secretaries of Commerce and Labor, may be necessary to provide employment opportunities to those individuals affected by this taking and to contribute to the economic revival of Del Norte and Humboldt Counties, in northern California. Effective on October 1, 1978, there are authorized such sums as may be necessary to carry out the employment and economic mitigation provisions of this Act: *Provided*, That the authority to make payments under this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(Pub. L. 95-250, title I, § 102(a), (b), Mar. 27, 1978, 92 Stat. 166, 167.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79k to 79q of this title, amended sections 1a-1, 79b, and 79c of

this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

Sections 79b and 79c of this title, referred to in subsec. (a), in the original read "the first section of this Act" meaning section 101 of Pub. L. 95-250. Provisions of section 101 relating to the addition of property to Redwood National Park are classified to sections 79b and 79c of this title.

CODIFICATION

Section was not enacted as a part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

STUDY OF TIMBER HARVEST SCHEDULING ALTERNATIVES FOR SIX RIVERS NATIONAL FOREST; SCOPE; REPORT TO CONGRESS

Section 102(c) of Pub. L. 95-250 provided that: "The Secretary of Agriculture within one year after the date of enactment of this Act [Mar. 27, 1978], shall prepare and transmit to Congress a study of timber harvest scheduling alternatives for the Six Rivers National Forest. Such alternatives shall exclude the timber inventories now standing on units of the Wilderness Preservation System and shall be consistent with laws applicable to management of the national forests. In developing the alternatives, the Secretary shall take into consideration economic, silvicultural, environmental, and social factors."

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Section 109 of Pub. L. 95-250 provided that: Unless otherwise indicated hereinbefore, a reference to the Secretary will refer to the Secretary of the Department of the Interior, except in subsections 103(d) through 103(i) [section 79*l*(d) to (i) of this title], where a reference to the Secretary will refer to the Secretary of the Department of Labor."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 79m of this title.

§ 79*l*. Employment of personnel for rehabilitation, protection, and improvements of additions to Park

(a) Appointment and compensation of personnel for implementation of protection and enhancement programs; preferential hiring requirements

In order to utilize the skills of individuals presently working in the woods and in the mills to the greatest degree possible to both ease the personal economic effects of this taking, and to assist in the necessary rehabilitation, protection, and improvement of lands acquired by this Act through implementation of sound rehabilitation and land use practices, the Secretary shall have power to appoint and fix the compensation of seven full-time and thirty-one temporary personnel to assist in carrying out such programs necessary for the protection and enhancement of Redwood National Park. In filling these positions, preference shall be given to affected employees (as defined in title II of this Act) for a period ending on September 30, 1984, notwithstanding applicable civil service laws and regulations.

(b) Appointment and compensation of personnel for administration of expanded Park; preferential hiring requirements; appointment, etc., of additional personnel

In order to effectively administer the expanded Redwood National Park created by this Act in a manner that will provide maximum protection to its resources and to provide for maximum visitor use and enjoyment to ease the local economic effects of this taking, the Secretary shall have power to appoint and fix the compensation of two full-time and twenty temporary employees in the competitive service. In filling these positions, preference shall be given to affected employees (as defined in title II) for a period ending on September 30, 1984, notwithstanding applicable civil service laws and regulations. The Secretary shall further have power to appoint and fix the compensation of an additional thirty-two full-time and forty temporary employees in the competitive service as provided by this subsection at the time of the donation of those park lands or interests in land owned by the State of California as are within the boundaries of Redwood National Park as provided herein. In filling these positions, preference shall be given to those State employees affected by this transfer for a period not to exceed six years from the date of transfer; permanent State civil service employees shall be provided the opportunity to transfer to a comparable Federal civil service classification notwithstanding applicable civil service laws and regulations.

(c) Job positions subject to preferential treatment for affected employees

An affected employee shall be given full consideration for certain civilian jobs as provided in this section both with the Federal Government and with those private employers that have certain undertakings or programs that involve Federal participation or approval for the period beginning on March 27, 1978, and ending September 30, 1984, if the positions will be primarily located in Humboldt or Del Norte Counties or other counties in California adjacent thereto, and if the employee is otherwise qualified under this section.

(d) Procedures applicable to Federal agencies for creating or filling job positions; applicants subject to preferential treatment; considerations for employment

(1) Any Federal agency that is creating or filling a civilian Federal job that is within the scope of clause (2)(A) of this subsection, pursuant to contract, civil service merit system, or otherwise, that will be primarily located in Humboldt or Del Norte Counties, California, or other counties in California adjacent thereto, must provide notice in advance of the availability of that job and must provide qualified affected employee applicants for these positions with full consideration for these positions if the further conditions set forth in clause (2)(B) of this subsection are met. The notice required by this paragraph shall be as provided by applicable law and regulation through the offices of the Employment and Training Services located in Humboldt and Del Norte Counties, California, and through such other means as are likely to gain the attention of affected employees.

(2) Consideration for employment under this section shall be provided under the following conditions:

(A) the job involves skills and training that could reasonably be expected to have been

gained by individuals who have been employed as logging and related woods employees or sawmill, plywood, and other wood processing employees, or office employees, or that can reasonably be expected to be gained while so employed, or pursuant to retraining as provided herein; and

(B) the applicant has the ability, or can reasonably be expected to have the ability after appropriate training of reasonable duration as further provided herein, to perform the duties of the job: *Provided*, That the full consideration shall not be required with respect to those affected employee applicants requiring training in a situation where the schedule for completion of the work is such that the period during which said employee can reasonably be expected to work following completion of training is determined by the Secretary to be incommensurate with the time and funds required to provide said employee with the necessary training.

(e) Private employer requirements for filling covered employment positions with affected employees pursuant to Federal contracts, etc.; procedures applicable and considerations for employment

(1) Any Federal agency involved in the manner provided herein with a private employer responsible for filing[1] an employment position that is within the scope of clause (2)(A) of subsection (d) of this section, that will be primarily located in Humboldt or Del Norte Counties, or other counties in California adjacent thereto, is directed to require that any Federal contracts, grants, subsidies, loans, or other forms of funding assistance, and any Federal lease, permit, license, certificate, or other entitlement for use, not constituting an existing property right as of March 27, 1978, that is a condition to or a requirement of the conduct of harvesting and related activities or replanting and land rehabilitation or the conduct of wood processing and related activities or the conduct of highway construction and related activities shall be subject to and conditioned upon said private employer giving full consideration to affected employees as provided herein.

(2) Any private employer who participates with a Federal agency in the manner described above and who is, accordingly, subject to the requirements as provided herein, shall—

(A) provide notice of the availability of those jobs described in subsection (d)(2)(A) of this section in the manner generally provided by subsection (d)(1) of this section; and

(B) provide full consideration to qualified affected employee applicants for these positions if the further conditions established by clause (2)(B) of subsection (d) of this section are met.

(f) Agreements with affected employers and industry employers for full consideration to employment of affected employees formerly employed by affected employers; implementation

The Secretary is directed to seek and authorized to enter into agreements with affected employers and industry employers providing that full consideration shall be given with respect to the employment of affected employees who had been employed by affected employers in jobs that may become available in Humboldt and Del Norte Counties and other counties adjacent thereto. The execution and carrying out of such an agreement, or the giving of full consideration to the employment of affected employees under subsection (c) of this section, shall not subject an employer to any additional liability or obligations under any Federal or State equal employment law, rule, regulation, or order.

(g) Implementation of requirements

(1) The Secretary, except as otherwise provided, shall be responsible for the implementation of this section and—

(A) is authorized and directed to make needed training available, upon application, to an affected employee applicant who, although not presently qualified for a position, can be reasonably expected to be qualified after appropriate training;

(B) is authorized to take such actions as may be necessary to ensure that an affected employee is not denied full consideration because of the need for training where there is no substantial reason to believe that the applicant would be unable to perform the duties of the job after proper training. If the job is one which must be filled while the affected employee would be in training, the Secretary shall encourage the employer to fill the job only on a temporary basis subject to the successful completion of the training by the affected employee;

(C) shall require that, in a case in which two or more affected employee applicants have approximately equal qualifications for a job for which they are to receive full consideration, that applicant with the greatest creditable service shall be given preference among those applicants entitled to full consideration; and

(D) upon the filing of a complaint by an employee who alleges that said employee's rights to full consideration were disregarded, the Secretary shall make a finding on the merits of such complaint. If it is determined that there has been noncompliance with this section, the Secretary shall take such action as may be appropriate to correct the situation.

(2) To assist in implementing this section, agencies shall notify the Secretary, in advance, of any job opening as provided for by subsection (d) of this section and of any Federal commitment as provided for by subsection (e) of this section.

(3) The Secretary shall—

(A) seek the cooperation of the State of California and the county and local governments within Humboldt and Del Norte Counties in the implementation of the provisions of this section and in the adoption of similar provisions for full consideration of affected employees with regard to State, county, and local jobs and activities; and

(B) appoint, from among nominees proposed by certified or recognized unions representing employees, a person or persons who

[1] So in original. Probably should be "filling".

shall serve as the Secretary's liaison with employees and their union and as consultant to the Secretary with regard to the administration of those provisions of this Act for which the Secretary is responsible.

(h) Judicial review of determination of Secretary respecting employee, etc.; procedures applicable

An employee, a group of employees, a certified or recognized union, or an authorized representative of such employee or group, aggrieved by any determination by the Secretary under this Act shall be entitled to judicial review of such determination in the same manner and under the same conditions as provided by section 2322 of title 19.

(i) Additional or alternative rights under existing labor laws, regulations, or contracts unaffected; compensation of employees appointed to Federal jobs

Nothing in this section shall be construed to affect any additional or alternative rights under a law, regulation, or contract (including, but not limited to, veteran preference and contracts between private employers and unions) in effect as of March 27, 1978, and the implementation of this section shall be carried out in accord with applicable civil service laws and regulations except as otherwise provided for in this section. Employees appointed to Federal jobs pursuant to this section shall have their compensation fixed at rates not to exceed that now or hereafter prescribed for the highest rate of grade 15 of the General Schedule under section 5332 of title 5.

(Pub. L. 95-250, title I, § 103, Mar. 27, 1978, 92 Stat. 167.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (a), (b), (g)(3)(B), and (h), means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79k to 79q of this title, amended sections 1a-1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

Title II of this Act, referred to in subsecs. (a) and (b), is title II of Pub. L. 95-250, and was not classified to the Code.

The civil service laws, referred to in subsecs. (a) and (b), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

CODIFICATION

Section was not enacted as a part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Reference to Secretary, unless otherwise indicated, as reference to Secretary of Department of the Interior, except for purposes of subsecs. (d) to (i) of this section, where reference to Secretary shall refer to Secretary of the Department of Labor, see section 109 of Pub. L. 95-250, set out as a note under section 79k of this title.

§ 79m. Annual reporting requirements; contents; comprehensive general management plan; submission date and scope

(a) The Secretary shall submit an annual written report to the Congress on January 1, 1979, and annually thereafter for ten years, reporting on the status of payment by the Secretary for real property acquired pursuant to section 79c(b)(1) and section 79b of this title; the status of the actions taken regarding land management practices and watershed rehabilitation efforts authorized by section 79c(e) and section 79k(b) of this title; the status of the efforts to mitigate adverse economic impacts as directed by this Act; this[1] status of National Park Service employment requirements as authorized by section 79*l* of this title; the status of the new bypass highway and of the agreement for the donation of the State park lands as contemplated by section 79c(b)(2) of this title; and, the status of the National Park Service general management plan for the park.

(b) No later than January 1, 1980, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources of the Senate, a comprehensive general management plan for Redwood National Park, to include but not be limited to the following:

(1) the objectives, goals, and proposed actions designed to assure the preservation and perpetuation of a natural redwood forest ecosystem;

(2) the type and level of visitor use to be accommodated by the park, by specific area, with specific indications of carrying capacities consistent with the protection of park resources;

(3) the type, extent, and estimated cost of development proposed to accommodate visitor use and to protect the resource, to include anticipated location of all major development areas, roads, and trails; and

(4) the specific locations and types of foot trail access to the Tall Trees Grove, of which one route shall, unless shown by the Secretary to be inadvisable, principally traverse the east side of Redwood Creek through the essentially virgin forest, connecting with the roadhead on the west side of the park east of Orick.

(Pub. L. 95-250, title I, § 104, Mar. 27, 1978, 92 Stat. 170.)

REFERENCES IN TEXT

Section 79c(b)(1) of this title, referred to in subsec. (a), in the original read "section 101(a)(4) . . . of this amendment" meaning section 101(a)(4) of Pub. L. 95-250, which amended section 79c(b)(1) of this title.

Section 79b of this title, referred to in subsec. (a), in the original read "section 101(a)(2) of this amendment" meaning section 101(a)(2) of Pub. L. 95-250, which amended subsecs. (a) and (b), and added subsec. (c), of section 79b of this title.

Section 79c(e) of this title, referred to in subsec. (a), in the original read "section 101(a)(6) . . . of this amendment" meaning section 101(a)(6) of Pub. L. 95-250, which amended section 79c(e) of this title.

[1] So in original. Probably should be "the".

Section 79k(b) of this title, referred to in subsec. (a), in the original read "section 102(b) of this amendment" meaning section 102(b) of Pub. L. 95-250, which enacted section 79k(b) of this title.

This Act, referred to in subsec. (a), means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79k to 79q of this title, amended sections 1a-1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

Section 79*l* of this title, referred to in subsec. (a), in the original read "section 102 of this amendment" meaning section 103 of Pub. L. 95-250, which enacted section 79*l* of this title.

Section 79c(b)(2) of this title, referred to in subsec. (a), in the original read "section 101(a)(5) of this amendment" meaning section 101(a)(5) of Pub. L. 95-250, which amended section 79c(b)(2) of this title.

CODIFICATION

Section was not enacted as a part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Reference to Secretary, unless otherwise indicated, as reference to Secretary of Department of the Interior, see section 109 of Pub. L. 95-250, set out as a note under section 79k of this title.

§ 79n. Authorization of appropriations for rehabilitation programs

Effective on October 1, 1978, there are hereby authorized to be appropriated $33,000,000 to carry out the rehabilitation provisions of this Act.

(Pub. L. 95-250, title I, § 105, Mar. 27, 1978, 92 Stat. 171.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79k to 79q of this title, amended sections 1a-1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as a part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

§ 79o. Payments to local government units for entitlement lands within Park

(a) Authorization; manner of payments; use; computation of amount

Notwithstanding any contrary provision of sections 1601 to 1607 of title 31, the Secretary is authorized and directed to make payments on a fiscal year basis to each unit of local government, in the manner provided by sections 1601 to 1607 of title 31, in which lands owned by the United States within Redwood National Park are located. Such payments may be used for any governmental purpose. The amount of such payments shall be computed as provided in subsections (b) and (c) of this section.

(b) Amount included within payments

Payment made for any fiscal year to a unit of local government shall include that amount determined pursuant to the provisions of section 1602 of title 31.

(c) Additional amount included within payments; limitation

Payment made for any fiscal year to a unit of local government shall also include that amount determined pursuant to the provisions of section 1603 of title 31: *Provided, however,* That any amount computed as provided by section 1603(c)(1) of title 31, but not paid because of the limitation of subsection (c)(2) and subsection (d) of that section shall be carried forward and shall be applied to future years in which this portion of the total payment would not otherwise equal the amount of real property taxes assessed and levied on such property during the last full fiscal year before the fiscal year in which such land or interest was acquired for addition to Redwood National Park until such amount is exhausted.

(d) Redwoods Community College District deemed affected school district for payment purposes

The Redwoods Community College District shall be considered as an affected school district for purpose of section 1603(a) of title 31.

(Pub. L. 95-250, title I, § 106, Mar. 27, 1978, 92 Stat. 171.)

CODIFICATION

Section was not enacted as a part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Reference to Secretary, unless otherwise indicated, as reference to Secretary of Department of the Interior, see section 109 of Pub. L. 95-250, set out as a note under section 79k of this title.

§ 79p. Community services and employment opportunities of Redwoods United, Inc. to be maintained at present rate of employment

The Secretary is further authorized, and the Congress specifically directs that it shall be a purpose of this Act, that the community services and employment opportunities provided by Redwoods United, Incorporated, a nonprofit corporation located in Manila, California, shall be maintained at the present rate of employment to the greatest degree practicable.

(Pub. L. 95-250, title I, § 107, Mar. 27, 1978, 92 Stat. 171.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79k to 79q of this title, amended sections 1a-1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as a part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

REFERENCE TO SECRETARY AS REFERENCE TO SECRETARY OF DEPARTMENT OF THE INTERIOR; EXCEPTION

Reference to Secretary, unless otherwise indicated, as reference to Secretary of Department of the Interi-

or, see section 109 of Pub. L. 95-250, set out as a note under section 79k of this title.

§ 79q. Pledge of full faith and credit of United States for payment of compensation for lands, etc., taken

The Congress further acknowledges and directs that the full faith and credit of the United States is pledged to the prompt payment of just compensation as provided for by the fifth amendment to the Constitution of the United States for those lands and properties taken by this Act.

(Pub. L. 95-250, title I, § 108, Mar. 27, 1978, 92 Stat. 72.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95-250, Mar. 27, 1978, 92 Stat. 163, as amended, which, insofar as classified to the Code, enacted sections 79k to 79q of this title, amended sections 1a-1, 79b, and 79c of this title, and enacted provisions set out as a note under section 79k of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was not enacted as a part of Pub. L. 90-545, Oct. 2, 1968, 82 Stat. 931, which comprises this subchapter.

SUBCHAPTER X—NORTH CASCADES NATIONAL PARK

§ 90d-4. Federal Power Act administrative jurisdiction unaffected

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER XXIV—GRAND CANYON NATIONAL PARK

§ 222. Administration, concessions, privileges; contracts for sale of water

The administration, protection, and promotion of Grand Canyon National Park shall be exercised under the direction of the Secretary of the Interior, by the National Park Service, subject to the provisions of sections 1 and 2 to 4 of this title. All concessions for hotels, camps, transportation, and other privileges of every kind and nature for the accommodation or entertainment of visitors shall be let at public bidding to the best and most responsible bidder. Under such terms and conditions as he deems advisable and consistent with the requirements of section 483a of title 31, the Secretary is authorized, without derogation of any of the water rights of the United States and notwithstanding any provision of law to the contrary, to sell by contract water located within Grand Canyon National Park for the use of customers within Tusayan, Arizona, to a nonprofit entity authorized to receive and distribute water within Tusayan, Arizona by the laws of the State of Arizona, upon his determination that such sale is not detrimental to the protection of the resources of Grand Canyon National Park or its visitors and that appropriate measures to provide for such protection, including a right of immediate termination, are included in the transaction.

(As amended Nov. 3, 1978, Pub. L. 95-586, title XII, § 1201, 92 Stat. 2495.)

AMENDMENTS

1978—Pub. L. 95-586 added provisions authorizing the Secretary to contract for the sale of water located within the park for use of customers within Tusayan, Arizona.

SUBCHAPTER XXV—JEAN LAFITTE NATIONAL HISTORICAL PARK

PART A—GENERALLY

§ 230. Establishment; description of area

In order to preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region and to provide for their interpretation in such manner as to portray the development of cultural diversity in the region, there is authorized to be established in the State of Louisiana the Jean Lafitte National Historical Park and Preserve (hereinafter referred to as the "park"). The park shall consist of (1) the area of approximately twenty thousand acres generally depicted on the map entitled "Barataria Marsh Unit-Jean Lafitte National Historical Park and Preserve" numbered 90,000B and dated April 1978, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior; (2) the area known as Big Oak Island; (3) an area or areas within the French Quarter section of the city of New Orleans as may be designated by the Secretary of the Interior for an interpretive and administrative facility; (4) the Chalmette National Historical Park; and (5) such additional natural, cultural, and historical resources in the French Quarter and Garden District of New Orleans, forts in the delta region, plantations, and Acadian towns and villages in the Saint Martinville area and such other areas and sites as are subject to cooperative agreements in accordance with the provisions of this part.

(Pub. L. 95-625, title IX, § 901, Nov. 10, 1978, 92 Stat. 3534.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 230a, 230c of this title.

§ 230a. Acquisition of property

(a) Authority of Secretary; manner and place; donation of State lands; mineral rights

Within the Barataria Marsh Unit the Secretary is authorized to acquire not to exceed eight thousand acres of lands, waters, and interests therein (hereinafter referred to as the "core area"), as depicted on the map referred to in section 230 of this title, by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by any of the foregoing methods such lands and

interests therein, including leasehold interests, as he may designate in the French Quarter of New Orleans for development and operation as an interpretive and administrative facility. Lands, waters, and interests therein owned by the State of Louisiana or any political subdivision thereof may be acquired only by donation. In acquiring property pursuant to this part, the Secretary may not acquire right to oil and gas without the consent of the owner, but the exercise of such rights shall be subject to such regulations as the Secretary may promulgate in furtherance of the purposes of this part.

(b) Guidelines or criteria; consultation

With respect to the lands, waters, and interests therein generally depicted as the "park protection zone" on the map referred to in section 230 of this title, the Secretary shall, no later than six months from November 10, 1978, in consultation with the affected State and local units of government, develop a set of guidelines or criteria applicable to the use and development of properties within the park protection zone to be enacted and enforced by the State or local units of government.

(c) Values; preservation and protection

The purpose of any guideline developed pursuant to subsection (b) of this section shall be to preserve and protect the following values within the core area:

(1) fresh water drainage patterns from the park protection zone into the core area;

(2) vegetative cover;

(3) integrity of ecological and biological systems; and

(4) water and air quality.

(d) State authority; cession to Secretary

Where the State or local units of government deem it appropriate, they may cede to the Secretary, and the Secretary is authorized to accept, the power and authority to confect and enforce a program or set of rules pursuant to the guidelines established under subsection (b) of this section for the purpose of protecting the values described in subsection (c) of this section.

(e) Values; protective acquisitions

The Secretary, upon the failure of the State or local units of government to enact rules pursuant to subsection (b) of this section or enforce such rules so as to protect the values enumerated in subsection (c) of this section, may acquire such lands, servitudes, or interests in lands within the park protection zone as he deems necessary to protect the values enumerated in subsection (c) of this section.

(f) Boundaries; revision

The Secretary may revise the boundaries of the park protection zone, notwithstanding any other provision of law, to include or exclude properties, but only with the consent of Jefferson Parish.

(Pub. L. 95-625, title IX, § 902, Nov. 10, 1978, 92 Stat. 3535.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 230d of this title.

§ 230b. Owner's retention of right of use and occupancy for residential purposes for life or fixed term of years; election of term; fair market value; transfer, assignment or termination; improved property defined

Within the Barataria Marsh Unit, the owner or owners of improved property used for noncommercial residential purposes on a yearround basis may, as a condition of the acquisition of such property by the Secretary, elect to retain a right of use and occupancy of such property for noncommercial residential purposes if, in the judgment of the Secretary, the continued use of such property for a limited period would not unduly interfere with the development or management of the park. Such right of use and occupancy may be either a period ending on the death of the owner or his spouse, whichever occurs last, or a term of not more than twenty-five years, at the election of the owner. Unless the property is donated, the Secretary shall pay to the owner the fair market value of the property less the fair market value of the right retained by the owner. Such right may be transferred or assigned and may be terminated by the Secretary, if he finds that the property is not used for noncommercial residential purposes, upon tender to the holder of the right an amount equal to the fair market value of the unexpired term. As used in this section, the term "improved property" means a single-family, yearround dwelling, the construction of which was begun before January 1, 1977, which serves as the owner's permanent place of abode at the time of its acquisition by the United States, together with not more than three acres of land on which the dwelling and appurtenant buildings are located which the Secretary finds is reasonably necessary for the owner's continued use and occupancy of the dwelling.

(Pub. L. 95-625, title IX, § 903, Nov. 10, 1978, 92 Stat. 3536.)

§ 230c. Cooperative agreements; specific provisions

In furtherance of the purposes of this part, and after consultation with the Commission created by section 230f of this title, the Secretary is authorized to enter into cooperative agreements with the owners of properties of natural, historical, or cultural significance, including but not limited to the resources described in paragraphs (1) through (5) of section 230 of this title, pursuant to which the Secretary may mark, interpret, restore and/or provide technical assistance for the preservation and interpretation of such properties, and pursuant to which the Secretary may provide assistance including management services, program implementation, and incremental financial assistance in furtherance of the standards for administration of the park pursuant to section 230e of this title. Such agreements shall contain, but need not be limited to, provisions that the Secretary, through the National Park Service, shall have the right of access at all reasonable times to all public portions of the property covered by such agreement for the purpose of conducting visitors through such properties and interpreting them to the public, and that

no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to such agreements. The agreements may contain specific provisions which outline in detail the extent of the participation by the Secretary in the restoration, preservation, interpretation, and maintenance of such properties.

(Pub. L. 95–625, title IX, § 904, Nov. 10, 1978, 92 Stat. 3536.)

REFERENCES IN TEXT

Section 230f of this title, referred to in text, in the original read "section 7 of this title", probably meaning section 907 of title IX of Pub. L. 95–625, which enacted section 230f of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 230e of this title.

§ 230d. Hunting, fishing, and trapping; public safety; consultation

Within the Barataria Marsh Unit, the Secretary shall permit hunting, fishing (including commercial fishing), and trapping in accordance with applicable Federal and State laws, except that within the core area and on those lands acquired by the Secretary pursuant to section 230a(c) of this title, he may designate zones where and establish periods when no hunting, fishing, or trapping shall be permitted for reasons of public safety. Except in emergencies, any regulations of the Secretary promulgated under this section shall be put into effect only after consultation with the appropriate fish and game agency of Louisiana.

(Pub. L. 95–625, title IX, § 905, Nov. 10, 1978, 92 Stat. 3536.)

§ 230e. Notice; publication in Federal Register; administration

The Secretary shall establish the park by publication of a notice to that effect in the Federal Register at such time as he finds that, consistent with the general management plan referred to in section 230g of this title, sufficient lands and interests therein (i) have been acquired for interpretive and administrative facilities, (ii) are being protected in the core area, and (iii) have been made the subject of cooperative agreements pursuant to secton[1] 230c of this title. Pending such establishment and thereafter the Secretary shall administer the park in accordance with the provisions of this part, sections 1 and 2 to 4 of this title, sections 461 to 467 of this title, and any other statutory authorities available to him for the conservation and management of natural, historical, and cultural resources.

(Pub. L. 95–625, title IX, § 906, Nov. 10, 1978, 92 Stat. 3537.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 230c of this title.

[1] So in original. Probably should be "section".

§ 230f. Delta Region Preservation Commission

(a) Establishment; membership

There is established the Delta Region Preservation Commission (hereinafter referred to as the "Commission"), which shall consist of the following:

(1) two members appointed by the Governor of the State of Louisiana;

(2) two members appointed by the Secretary from recommendations submitted by the President of Jefferson Parish;

(3) two members appointed by the Secretary from recommendations submitted by the Jefferson Parish Council;

(4) two members appointed by the Secretary from recommendations submitted by the mayor of the city of New Orleans;

(5) one member appointed by the Secretary from recommendations submitted by the commercial fishing industry;

(6) three members appointed by the Secretary from recommendations submitted by local citizen conservation organizations in the delta region; and

(7) one member appointed by the Chairman of the National Endowment for the Arts.

(b) Compensation and expenses

Members of the Commission shall serve without compensation as such. The Secretary is authorized to pay the expenses reasonably incurred by the non-Federal members of the Commission in carrying out their duties.

(c) Functions

The function of the Commission shall be to advise the Secretary in the selection of sites for inclusion in the park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the region. The Commission shall inform interested members of the public, the State of Louisiana and its political subdivisions, and interested Federal agencies with respect to existing and proposed actions and programs having a material effect on the perpetuation of a high-quality natural and cultural environment in the delta region.

(d) Majority voting; generally; single parish or municipality

The Commission shall act and advise by affirmative vote of a majority of its members: *Provided*, That any recommendation of the Commission that affects the use or development, or lack thereof, of property located solely within a single parish or municipality shall have the concurrence of a majority of the members appointed from recommendations submitted by such parish or municipality.

(e) Ex officio members; staff support and technical services

The Directors of the Heritage Conservation and Recreation Service and the National Park Service shall serve as ex officio members of the Commission and provide such staff support and technical services as may be necessary to carry out the functions of the Commission.

(Pub. L. 95–625, title IX, § 907, Nov. 10, 1978, 92 Stat. 3537.)

TERMINATION OF ADVISORY COMMISSIONS

Advisory commissions established after Jan. 5, 1973, to terminate not later than the expiration of the two-year period beginning on the date of their establishment, unless, in the case of a commission established by the President or an officer of the Federal Government, such commission is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a commission established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 230c of this title.

§ 230g. Authorization of appropriations; general management plan; submission to Congressional committees

(a) There is authorized to be appropriated, to carry out the provisions of this part, not to exceed $50,000,000 from the Land and Water Conservation Fund for acquisition of lands, waters, and interests therein and such sums as necessary for the development of essential facilities.

(b) Within three years from November 10, 1978, the Secretary, after consultation with the Commission, shall submit to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate a general management plan for the park indicating—

(1) transportation alternatives for public access to the park;

(2) the number of visitors and types of public use within the park which can be accommodated in accordance with the protection of its resources;

(3) the location and estimated cost of facilities deemed necessary to accommodate such visitors and uses; and

(4) a statement setting forth the actions which have been and should be taken to assure appropriate protection, interpretation, and management of the areas known as Big Oak Island and Couba Island.

(Pub. L. 95-625, title IX, § 908, Nov. 10, 1978, 92 Stat. 3537.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 230e of this title.

§ 230h. Change in name of Chalmette National Historical Park

The area described in the Act of October 9, 1962 (76 Stat. 755), as the "Chalmette National Historical Park" is hereby redesignated as the Chalmette Unit of the Jean Lafitte National Historical Park. Any references to the Chalmette National Historical Park shall be deemed to be references to said Chalmette Unit.

(Pub. L. 95-625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538.)

REFERENCES IN TEXT

The Act of October 9, 1962 (76 Stat. 755), referred to in text, is Pub. L. 87-759, Oct. 9, 1962, 76 Stat. 755. Section 5 of that Act, which related to the boundaries of the Park, is set out as a note under section 231a of this title.

§ 230i. Report to Congressional committees

By no later than the end of the first full fiscal year following November 10, 1978, the Secretary shall submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report with recommendations as to sites within the Mississippi River Delta Region which constitute nationally significant examples of natural resources within that region.

(Pub. L. 95-625, title IX, § 910, Nov. 10, 1978, 92 Stat. 3538.)

PART B—CHALMETTE UNIT

§ 231. Establishment

The lands in Federal ownership located in Chalmette, Louisiana, in sections 10 and 21, township 13 south, range 12 east, Saint Helena meridian, on which there has been erected a monument pursuant to the provisions of section 450a of this title to the memory of the soldiers who fell in the Battle of New Orleans in the War of 1812, including the national cemetery at Chalmette, Louisiana, are designated as the Chalmette Unit of the Jean Lafitte National Historical Park.

(As amended Pub. L. 95-625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538.)

CHANGE OF NAME

The Chalmette National Historical Park was redesignated the Chalmette Unit of the Jean Lafitte National Historical Park and references to the Park deemed references to the Chalmette Unit pursuant to Pub. L. 95-625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538, which is classified to section 230h of this title.

§ 231a. Boundaries

Upon the vesting of title in the United States to such additional lands as may be designated by the Secretary of the Interior as necessary and desirable for the purposes of the Chalmette Unit of the Jean Lafitte National Historical Park, such lands shall become a part of the said park and shall be subject to all laws, rules, and regulations applicable thereto: *Provided, however,* That the total area included within the said park and any enlargement thereof shall not exceed five hundred acres.

(As amended Pub. L. 95-625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538.)

CHANGE OF NAME

The Chalmette National Historical Park was redesignated the Chalmette Unit of the Jean Lafitte National Historical Park and references to the Park deemed references to the Chalmette Unit pursuant to Pub. L. 95-625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538, which is classified to section 230h of this title.

ACQUISITION OF LANDS

Section 5 of Pub. L. 87-759, Oct. 9, 1962, 76 Stat. 756, provided:

"Within the boundaries of Chalmette National Historical Park as designated by the Secretary of the In-

terior on March 20, 1958, pursuant to the Act of August 10, 1939 (53 Stat. 1342), and depicted on drawing numbered NHP-CHAL-7008, said Secretary, notwithstanding the proviso in section 3 of said Act, is hereby authorized to acquire the following lands and interests in lands with funds heretofore appropriated and otherwise available for such purpose:

"Beginning at the point of intersection of the west line of Fazendeville Road with a line 50 feet south of southerly boundary of right-of-way of the Louisiana Southern Railway at coordinate point X—2,425,730.76 and Y—467,506.11; (the bearings and coordinates herein stated are in accord with the Louisiana geodetic survey plane grid system); and running thence south 66 degrees 32 minutes 46 seconds east, parallel to said southerly boundary of right-of-way of Louisiana Southern Railway, a distance of 30 feet to coordinate point X—2,425,758.28 and Y—467,494.17; thence south 23 degrees 45 minutes 21 seconds west for a distance of 917.90 feet along the east right-of-way of Fazendeville Road to a point;

"Thence south 66 degrees 14 minutes 39 seconds east for a distance of 161.83 feet to a point; thence south 23 degrees 45 minutes 21 seconds west on a line parallel to Fazendeville Road for a distance of 1,406.51 feet to a point; thence north 64 degrees 19 minutes 9 seconds west for a distance of 161.92 feet to a point on the east right-of-way of Fazendeville Road; thence south 23 degrees 45 minutes 21 seconds west along the east right-of-way of Fazendeville Road for a distance of 19.41 feet to a point;

"Thence south 64 degrees 19 minutes 9 seconds east for a distance of 95.70 feet to a point; thence south 23 degrees 45 minutes 21 seconds west on a line parallel to Fazendeville Road for a distance of 54.90 feet to a point; thence north 64 degrees 19 minutes 9 seconds west for a distance of 95.70 feet to a point on the east right-of-way of Fazendeville Road; thence south 23 degrees 45 minutes 21 seconds along the east right-of-way of Fazendeville Road for a distance of 279.44 feet to a point;

"Thence crossing Fazendeville Road on a line running north 49 degrees 02 minutes 49 seconds west for a distance of 31.40 feet to a point on the west right-of-way of Fazendeville Road; thence north 23 degrees 45 minutes 21 seconds east along the west right-of-way of Fazendeville Road for a distance of 2,663.28 feet to a point which is the point of beginning; containing 7.02 acres more or less, including 1.83 acres more or less within the right-of-way of the Fazendeville Road; and excluding lot 15, as shown on a map of survey by F. C. Gandolfo, Junior, dated January 9, 1953, and being in section 10 of township 13 south, range 12 east, parish of Saint Bernard, State of Louisiana, and known locally as Fazendeville."

§ 231b. Acceptance of donations

The Secretary of the Interior is authorized, in his discretion, to acquire in behalf of the United States, through donations or by purchase at prices deemed by him reasonable, or by condemnation in accordance with sections 257 and 258 of title 40, lands, buildings, structures, and other property, or interests therein, located within the boundaries of the Chalmette Unit of the Jean Lafitte National Historical Park as fixed and determined by this subchapter the title to such property and interests to be satisfactory to the Secretary of the Interior, and to accept donations of funds for the acquisition and maintenance thereof: *Provided*, That payment for such property or interests shall be made solely from donated funds.

(As amended Pub. L. 95–625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538.)

Change of Name

The Chalmette National Park was redesignated the Chalmette Unit of the Jean Lafitte National Historical Park and references to the Park deemed references to the Chalmette Unit pursuant to Pub. L. 95–625, title IX, § 909, Nov. 10, 1978, 92 Stat. 3538, which is classified to section 230h of this title.

SUBCHAPTER XXVI—THEODORE ROOSEVELT NATIONAL PARK

§ 241. Establishment of park; boundaries; maintenance of roads

All those certain tracts, pieces, or parcels of land, title to which is vested in the United States of America, and being in the State of North Dakota, and within the boundaries particularly described, as follows, to wit: Beginning at the point where the north line of the right-of-way of United States Highway Numbered 10 intersects the east boundary of section 36, township 140 north, range 101 west, fifth principal meridian; thence southwesterly and northwesterly along the north line of said right-of-way through section 1, township 139 north, range 101 west, and sections 36, 35, 34, 27, 28, 29, and 30, township 140 north, range 101 west; thence northwesterly and southwesterly along the north line of the right-of-way of said highway to be relocated as shown on the right-of-way plat for project SNFAP 283C(3) filed for record in the office of the register of deeds, Medora, North Dakota, book numbered 2 of plats, page 68, on June 13, 1942, through section 25 and the east half of the northeast quarter of section 26, township 140 north, range 102 west, to the point of intersection with the east sixteenth section line of said section 26; thence north along the sixteenth section line to the northwest corner of the northeast quarter of the northeast quarter of said section 26; thence northwesterly along a line to the northwest corner of the southwest quarter of the southeast quarter of section 23, township 140 north, range 102 west; thence westerly along the sixteenth section line to the northeast corner of the southeast quarter of the southeast quarter of section 22; township 140 north, range 102 west; thence southerly along the east section line to the southeast corner of said section 22; thence westerly along the south line of said section 22 to the point of intersection with the right bank of the Little Missouri River; thence northerly and westerly along the right bank of said river to the point of intersection with the east line of section 21, township 140 north, range 102 west; thence southerly along the east line of said section 21, to the intersection with the north line of the right-of-way of the Northern Pacific Railway, which point lies north of said United States Highway Numbered 10; thence westerly along the north line of said right-of-way to the point of intersection with the north line of the right-of-way of said United States Highway Numbered 10; thence westerly along the north line of the right-of-way of said highway through said section 21 to the intersection with the west line of said section 21; thence northerly along the west line of said section 21, and sections 16 and 9, thence continuing northerly to the southeast corner of

Government lot 9, section 5, township 140 north, range 102 west; thence northwesterly to the northwest corner of Government lot 2 in said section 5; thence westerly to the southwest corner of the southeast quarter of section 34, township 141 north, range 102 west; thence northerly along the quarter section line to the northwest corner of the said southeast quarter of section 34; thence northwesterly along a line to the southwest corner of section 27, township 141 north, range 102 west; thence northerly along the west line of said section 27, to the southwest corner of the northwest quarter of said section 27; thence northeasterly along a line to the southwest corner of the southeast quarter of section 22, township 141 north, range 102 west; thence continuing northeasterly along a line to the southwest corner of the northwest quarter of section 23, township 141 north, range 102 west; thence continuing northeasterly along a line to the northeast corner of said northwest quarter of section 23; thence easterly along the north lines of said section 23, and section 24, township 141 north, range 102 west; to the northwest corner of section 19, township 141 north, range 101 west; thence continuing easterly along the north line of said section 19 to the northwest corner of the northeast quarter of said section 19; thence southeasterly along a line to the northwest corner of the southwest quarter of the southwest quarter of the northwest quarter of section 20, township 141 north, range 101 west; thence southerly along the west line of said section 20 to the northwest corner of the southwest quarter of section 20; thence easterly to the northwest corner of the southeast quarter of section 20; thence southerly to the southwest corner of the southeast quarter of said section 20; thence easterly along the north lines of section 29 and section 28, to the northeast corner of section 28, township 141 north, range 101 west; thence southerly along the west line of section 27, township 141 north, range 101 west, to the southwest corner of said section 27; thence easterly along the north lines of sections 34, 35, and 36 to the northeast corner of section 36, township 141 north, range 101 west; thence southerly along the east line of said section 36 to the southwest corner of section 31, township 141 north, range 100 west; thence easterly to the southeast corner of said section 31; thence southeasterly along a line to the northwest corner of Government lot 7 of section 2, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the southwest quarter of section 1, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the northeast quarter of section 12, township 140 north, range 101 west; thence continuing southeasterly along a line to the northwest corner of the southwest quarter of section 7, township 140 north, range 100 west; thence easterly along the quarter section line to the northwest corner of the southeast quarter of said section 7; thence southeasterly along a line to the northwest corner of section 17, township 140 north, range 100 west; thence continuing southeasterly along a line to a point which is 33 feet west of the east line of said section 17, and 33 feet north of the south line of said section 17; thence southerly on a line which lies 33 feet west of and parallel to the east lines of sections 20, 29, and 32 of township 140 north, range 100 west, to the point of intersection with the north right-of-way line of United States Highway Numbered 10; thence westerly along the north line of said right-of-way through said sections 32 and 31, township 140 north, range 100 west, to the point of intersection with the east boundary of section 36, township 140 north, range 101 west, the place of beginning, containing forty-nine thousand one hundred and fifty-three and seventy-nine one-hundredths acres more or less, are dedicated and set apart as a public park for the benefit and enjoyment of the people, and shall be known as the Theodore Roosevelt National Park. The Secretary of the Interior is authorized, in his discretion, to construct and maintain a road or highway through the park connecting with a State or Federal highway.

(As amended Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

The Theodore Roosevelt National Memorial Park was redesignated the Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 241a. Extension of boundaries

The following-described lands are made a part of the Theodore Roosevelt National Park, subject to all laws and regulations applicable thereto:

Beginning at the southwest corner of section 17, township 147 north, range 100 west; thence north along the west boundaries of sections 17, 8, 5, township 147 north, range 100 west, and section 32 to the southwest corner of section 29, township 148 north, range 100 west; thence east to the southwest corner of the southeast quarter of section 29; thence north to the northwest corner of the southwest quarter of the northeast quarter of section 29; thence east to the northeast corner of the southeast quarter of the northeast quarter of section 29; thence north along west boundary of sections 28 and 21 to the west quarter corner of section 21; thence east to the east quarter corner of section 21; thence north along west boundary of section 22 to the northwest corner of section 22; thence east along the north boundaries of sections 22, 23, 24, township 148 north, range 100 west and sections 19 and 20 to the north quarter corner of section 20, township 148 north, range 99 west; thence south to the northwest corner of the southeast quarter of secton 20; thence east to the east quarter corner of section 20; thence south to the southeast corner of section 20; thence along the north boundaries of sections 28, 27, and 26, township 148 north, range 99 west, to the northeast corner of section 26; thence south along east boundaries of sections 26 and 35 to the east quarter corner of section 35, township 148 north, range 99 west; thence west to the north bank of Little Missouri River; thence following the north bank of the Little Missouri River in a generally westerly di-

rection to where the north bank of the river crosses the north boundary of section 4, township 147 north, range 99 west; thence west to the northwest corner of section 4; thence south to the southeast corner of section 5; thence west along the south boundaries of sections 5 and 6, township 147 north, range 99 west, and section 1, township 147 north, range 100 west to the northeast corner of section 11; thence south along east boundaries of sections 11 and 14 to the southeast corner of section 14; thence west along the south boundaries of sections 14, 15, 16, and 17 to the point of beginning, all west of the fifth principal meridian.

(As amended Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

The Theodore Roosevelt National Memorial Park was redesignated the Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 241c. Additional extension of lands

The following-described lands are made a part of the Theodore Roosevelt National Park, subject to all laws and regulations applicable thereto: Beginning at a point in block 11 of the village of Medora, North Dakota, said point being on the northerly right-of-way line of Third Avenue a distance of 160 feet westerly from the northwest corner of the intersection of Third Avenue and Main Street; thence northerly a distance of 140 feet to a point on a line parallel to and 160 feet westerly of the westerly right-of-way line of Main Street; thence easterly 10 feet along a line parallel to and 140 feet northerly of the northerly right-of-way line of Third Avenue to a point 150 feet westerly of the westerly right-of-way line of Main Street; thence northerly 20 feet along a line parallel to and 150 feet westerly of the westerly right-of-way line of Main Street to a point on a line parallel to and 160 feet northerly of the northerly right-of-way line of Third Avenue: thence easterly along said line a distance of 150 feet to a point on the westerly right-of-way line of Main Street; thence northerly a distance of 40 feet along said westerly right-of-way line of Main Street to a point 200 feet northerly from the northwest corner of the intersection of Third Avenue and Main Street; thence easterly along a line parallel to and 200 feet northerly of the northerly right-of-way line of Third Avenue a distance of 970 feet to the northwesterly corner of lot 3 in block 8; thence southerly along the westerly line of lots 3 to 10, inclusive, in block 8 a distance of 200 feet to a point on the northerly right-of-way line of Third Avenue; thence along the northerly right-of-way line of Third Avenue extended easterly to a point on the west sixteenth line of section 26; thence northerly along said sixteenth line to a point on the section line common to sections 23 and 26; thence westerly along said section line to a point which is 600 feet easterly of the section corner common to sections 22, 23, 26, and 27; thence northerly along a line parallel to and 600 feet easterly from the section line common to sections 22 and 23 to a point on the south sixteenth line of section 23; thence westerly along said sixteenth line a distance of 600 feet to a point on the section line common to sections 22 and 23; thence southerly along said section line to the section corner common to sections 22, 23, 26, and 27; thence southerly along the section line common to sections 26 and 27 a distance of 390.5 feet; thence westerly a distance of 421.7 feet to a point on a line parallel to and 390.5 feet southerly from the section line common to sections 22 and 27; thence southerly a distance of 360 feet to a point in block 4 on a line parallel to and 150 feet westerly from the westerly right-of-way line of Main Street extended northerly; thence southwesterly on a straight line through the southwesterly corner of block 4 to a point on the southerly right-of-way line of Second Avenue extended westerly; thence westerly along said westerly extension of the southerly right-of-way line of Second Avenue to a point on the northeasterly right-of-way line of United States Highway Numbered 10; thence southeasterly along said northeasterly right-of-way line of United States Highway Numbered 10 to the intersection or juncture of said right-of-way line with the northerly right-of-way line of Third Avenue; thence easterly to the point of beginning; and all of that part of block 12 in the village of Medora that lies westerly of a line parallel to and westerly a distance of 140 feet from the westerly right-of-way line of Main Street; all in township 140 north, range 102 west, fifth principal meridian: *Provided*, That the lands and improvements thereon located in block 6 in the village of Medora now administered and used by the United States Forest Service, Department of Agriculture, shall not become a part of the park pursuant to this section until such time as they are transferred to the Department of the Interior by the Secretary of Agriculture.

(As amended Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

The Theodore Roosevelt National Memorial Park was redesignated the Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 241f. Extension of exchange authority

The land exchange authority relating to Theodore Roosevelt National Park prescribed by sections 241b and 243 of this title shall be applicable also to the lands described in section 241c of this title.

(As amended Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

The Theodore Roosevelt National Memorial Park was redesignated the Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 241g. Change in name of Theodore Roosevelt National Memorial Park

The area formerly known as the "Theodore Roosevelt National Memorial Park", established by this subchapter shall henceforth be known as the "Theodore Roosevelt National Park."

(Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

CODIFICATION

This section was not enacted as part of act Apr. 25, 1947, ch. 41, 61 Stat. 52, which comprises this subchapter.

§ 242. Condemnation of land for park; acceptance of donations

The Secretary of the Interior is authorized to cause condemnation proceedings to be instituted in the name of the United States under the provisions of sections 257 and 258 of title 40, to acquire title to the lands, interests therein, or rights pertaining thereto that are privately owned within the boundaries of the said national park, and such property, when acquired, shall become a part thereof: *Provided,* That when the owner of such lands, interests therein, or rights pertaining thereto shall fix a price for the same, which, in the opinion of the Secretary of the Interior, shall be reasonable, the Secretary may purchase the same without further delay: *Provided further,* That the Secretary of the Interior is authorized to accept, on behalf of the United States, donations of land, interests therein, or rights pertaining thereto required for the Theodore Roosevelt National Park: *And provided further,* That title and evidence of title to land and interests therein acquired for said park shall be satisfactory to the Attorney General.

(As amended Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

The Theodore Roosevelt National Memorial Park was redesignated the Theodore Roosevelt National Park pursuant to Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

§ 244. Construction of log buildings; limitation on cost

The Secretary of the Interior is further authorized to obtain by purchase or condemnation proceedings, as part of said Theodore Roosevelt National Park, lots 6 and 7, section 33, township 144 north, range 102 west; southeast quarter of southeast quarter, section 32, township 144 north, range 102 west; lots 4 and 5, section 4, township 143, range 102 west; and those parts of lot 1 and the southeast quarter of the northeast quarter, section 5, township 143 north, range 102 west, that lie north and east of a line running diagonally from the northwest corner of said lot 1 to the southeast corner of the southeast quarter of the northeast quarter of said section 5, and to reconstruct thereon the log ranch house thirty by sixty feet, the log blacksmith shop sixteen by twenty feet, one log stable sixteen by twenty feet, one log stable twenty by thirty feet, log dog house, three log rectangular corrals, and one log circular corral, as they existed at the time the premises were occupied by Theodore Roosevelt: *Provided,* That the total cost of such land and buildings shall not exceed $40,000.

(As amended Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

The Theodore Roosevelt National Memorial Park was redesignated the Theodore Roosevelt National Park, pursuant to Pub. L. 95–625, title VI, § 610, Nov. 10, 1978, 92 Stat. 3521, which is classified to section 241g of this title.

SUBCHAPTER XXIX—CANYONLANDS NATIONAL PARK

§ 271a. Acquisition of lands; authority of Secretary; exchange of property; cash equalization payments; transfer from Federal agency to administrative jurisdiction of Secretary; lands subject to reclamation and power withdrawals as part of park

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER XXXI—CAPITOL REEF NATIONAL PARK

§ 273f. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, not to exceed, however, $2,173,000 for the acquisition of lands and interests in lands and not to exceed $1,373,000 for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to December 18, 1971.

(As amended Pub. L. 95–625, title I, § 101(5), Nov. 10, 1978, 92 Stat. 3471.)

AMENDMENTS

1978—Pub. L. 95–625 substituted "$1,373,000 for development." for "$1,052,700 (April 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein."

SUBCHAPTER XXXIII—SAN JUAN ISLAND NATIONAL HISTORICAL PARK

§ 282c. Authorization of appropriations

There are hereby authorized to be appropriated such sums, but not more than $5,575,000 for the acquisition of lands and interests therein and for the development of the San Juan National Historical Park.[1]

(As amended Pub. L. 95–625, title I, § 101(22), Nov. 10, 1978, 92 Stat. 3472.)

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[1] So in original. Probably should be "San Juan Island National Historical Park".

AMENDMENTS

1978—Pub. L. 95-625 increased appropriations authorization to $5,575,000 from $3,542,000.

SUBCHAPTER XXXIV—GUADALUPE MOUNTAINS NATIONAL PARK

§ 283e. Authorization of appropriations; expenditure for improvements limitation

There are hereby authorized to be appropriated such sums, but not more than $1,800,000 in all, as may be necessary for the acquisition of lands and interest in lands, and not more than $24,715,000 as may be necessary for the development of the Guadalupe Mountains National Park. No funds appropriated for development purposes pursuant to this subchapter may be expended for improvements incompatible with wilderness management within the corridor of the park leading to the summit of Guadalupe Peak.

(As amended Pub. L. 95-625, title I, § 101(12), Nov. 10, 1978, 92 Stat. 3471.)

AMENDMENTS

1978—Pub. L. 95-625 increased development appropriations authorization to $24,715,000 from $10,362,000 and prohibited expenditure of funds for improvements incompatible with wilderness management within the corridor of the park leading to the summit of Guadalupe Peak.

SUBCHAPTER XLII-A—KALOKO-HONOKOHAU NATIONAL HISTORICAL PARK [NEW]

§ 396d. Park

(a) Establishment; description; statement of purpose

In order to provide a center for the preservation, interpretation, and perpetuation of traditional native Hawaiian activities and culture, and to demonstrate historic land use patterns as well as to provide a needed resource for the education, enjoyment, and appreciation of such traditional native Hawaiian activities and culture by local residents and visitors, there is established the Kaloko-Honokohau National Historical Park (hereinafter in this section referred to as the "park") in Hawaii comprising approximately one thousand three hundred acres as generally depicted on the map entitled "Kaloko-Honokohau National Historical Park," numbered KHN-80,000, and dated May 1978, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(b) Land acquisition; manner

Except for any lands owned by the State of Hawaii or its subdivisions, which may be acquired only by donation, the Secretary is authorized to acquire the lands described above by donation, exchange, or purchase through the use of donated or appropriated funds, notwithstanding any prior restriction of law.

(c) Administration; applicable provisions

The Secretary shall administer the park in accordance with this section and the provisions of law generally applicable to units of the national park system, including sections 1, 2 to 4, and 461 to 467 of this title, and generally in accordance with the guidelines provided in the study report entitled "Kaloko-Honokohau" prepared by the Honokohau Study Advisory Commission and the National Park Service, May 1974, GPO 690-514.

(d) Activities and agreements; native accommodations; cooperative marine management agreement; fishing, shoreline food gathering and small boat harbor activities: regulation; land and water management agreements

(1) In administering the park the Secretary may provide traditional native Hawaiian accommodations.

(2) The Secretary shall consult with and may enter into a cooperative management agreement with the State of Hawaii for the management of the submerged lands within the authorized park boundary, following the marine management policies of the State of Hawaii.

(3) Commercial, recreational, and subsistence fishing and shoreline food gathering activities as well as access to and from the Honokohau small boat harbor by motor boats and other water craft shall be permitted wherever such activities are not inconsistent with the purposes for which the park is established, subject to regulation by the Secretary.

(4) The Secretary shall consult with and may enter into agreements with other governmental entities and private landowners to establish adequate controls on air and water quality and the scenic and esthetic values of the surrounding land and water areas. In consulting with and entering into any such agreements, the Secretary shall to the maximum extent feasible utilize the traditional native Hawaiian Ahupua'a's concept of land and water management.

(e) Employment of native Hawaiians

In carrying out the purposes of this section the Secretary is authorized and directed as appropriate to employ native Hawaiians. For the purposes of this section, native Hawaiians are defined as any lineal descendants of the race inhabiting the Hawaiian Islands prior to the year 1778.

(f) Advisory Commission; establishment; membership; qualifications; term; Chairman; vacancies; compensation and expenses; ex officio members; duties; meetings; termination

(1) There is hereby established the Kaloko-Honokohau Na Hoa Pili O Kaloko-Honokohau (The Friends of Kaloko-Honokohau), an Advisory Commission for the park. The Commission shall be composed of nine members, appointed by the Secretary, at least five of whom shall be selected from nominations provided by native Hawaiian organizations. All members of the Commission shall be residents of the State of Hawaii, and at least six members shall be native Hawaiians. Members of the Commission shall be appointed for five-year terms except that initial appointment(s) shall consist of two members appointed for a term of five years, two for a term of four years, two for a term of three years, two for a term of two years, and one for a term of one year. No member may serve more than one term consecutively.

(2) The Secretary shall designate one member of the Commission to be Chairman. Any vacan-

cy in the Commission shall be filled by appointment for the remainder of the term.

(3) Members of the Commission shall serve without compensation. The Secretary is authorized to pay the expenses reasonably incurred by the Commission in carrying out its responsibilities under this section on vouchers signed by the Chairman.

(4) The Superintendent of the park, the National Park Service State Director, Hawaii, a person appointed by the Governor of Hawaii, and a person appointed by the mayor of the county of Hawaii, shall serve as ex officio nonvoting members of the Commission.

(5) The Commission shall advise the Director, National Park Service, with respect to the historical, archeological, cultural, and interpretive programs of the park. The Commission shall afford particular emphasis to the quality of traditional native Hawaiian culture demonstrated in the park.

(6) The Commission shall meet not less than twice a year. Additional meetings may be called by the Chairman.

(7) The Advisory Commission shall terminate ten years after November 10, 1978.

(g) Authorization of appropriations

There are hereby authorized to be appropriated not to exceed $25,000,000 for acquisition and $1,000,000 for development.

(Pub. L. 95-625, title V, § 505, Nov. 10, 1978, 92 Stat. 3499.)

REFERENCES IN TEXT

Sections 1 and 2 to 4 of this title, referred to in subsec. (c), in the original read act "approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 461-467)". Act Aug. 25, 1916 enacted sections 1 and 2 to 4 of this title.

SUBCHAPTER XLIII—PUUHONUA o HONAUNAU NATIONAL HISTORICAL PARK

§ 397. Boundaries

When title to such lands located on the island of Hawaii, within the following-described area, as shall be designated by the Secretary of the Interior, in the exercise of his judgment and discretion as necessary and suitable for the purpose, shall have been vested in the United States, said lands shall be set apart as the Puuhonua o Honaunau National Historical Park, in the Territory of Hawaii, for the benefit and inspiration of the people:

[See main edition for text under headings Parcels 1 to 3]

(As amended Nov. 10, 1978, Pub. L. 95-625, title III, § 305, 92 Stat. 3477.)

AMENDMENTS

1978—Pub. L. 95-625 redesignated as the "Puuhonua o Honaunau National Historical Park" the Park previously designated the "City of Refuge National Historical Park".

§ 397a. Establishment; publication in Federal Register

Upon the vesting of title in the United States to such lands as may be designated by the Secretary of the Interior as necessary and suitable for historical park purposes in accordance with the provisions of section 397 of this title, the Puuhonua o Honaunau National Historical Park shall be established by order of the said Secretary, which shall be published in the Federal Register. Any other lands within the area described above shall become a part of the national historical park upon the vesting of title thereto in the United States and upon publication of an appropriate supplemental order by the said Secretary in the Federal Register.

(As amended Nov. 10, 1978, Pub. L. 95-625, title III, § 305, 92 Stat. 3477.)

AMENDMENTS

1978—Pub. L. 95-625 redesignated as the "Puuhonua o Honaunau National Historical Park" the Park previously designated the "City of Refuge National Historical Park".

§ 397b. Procurement of lands

The Secretary of the Interior is authorized to procure, by donation or purchase, with any funds that may be available for that purpose, lands and interests in lands which may be needed for the Puuhonua o Honaunau National Historical Park within the area described in section 397 of this title.

(As amended Nov. 10, 1978, Pub. L. 95-625, title III, § 305, 92 Stat. 3477.)

AMENDMENTS

1978—Pub. L. 95-625 redesignated as the "Puuhonua o Honaunau National Historical Park" the Park previously designated the "City of Refuge National Historical Park".

§ 397d. Administration

The Puuhonua o Honaunau National Historical Park shall be administered by the Secretary of the Interior subject to the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented, and such additional authority compatible therewith as is contained in sections 461 to 467 of this title, with regard to preservation of historic sites and objects of national significance.

(As amended Nov. 10, 1978, Pub. L. 95-625, title III, § 305, 92 Stat. 3477.)

AMENDMENTS

1978—Pub. L. 95-625 redesignated as the "Puuhonua o Honaunau National Historical Park" the Park previously designated the "City of Refuge National Historical Park".

SUBCHAPTER XLIV—VIRGIN ISLANDS NATIONAL PARK

§ 398a. Conditions and limitations

The Secretary of the Interior is authorized subject to the following conditions and limitations, to proceed in such manner as he shall find to be necessary in the public interest to consummate the establishment of the Virgin Islands National Park:

[See main edition for text of (a) and (b)]

(c) The Secretary, on behalf of the United States, is authorized to accept donations of real

and personal property within the areas selected for the park until such time as the aforesaid total of nine thousand five hundred acres shall have been acquired for the park by the United States, and he may also accept donations of funds for the purposes of this section and section 398 of this title. Notwithstanding the acreage limitations and boundary designations contained in this section, the Secretary is authorized to accept through donation, or purchase from a willing seller, the real and personal property located on Lots 251-252 Estate Contant Enighed, Parcels 86B and 86AA Cruz Bay Quarter;

[*See main edition for text of (d) to (f)*]

(As amended Aug. 18, 1978, Pub. L. 95-348, § 7(b)(6), 92 Stat. 495.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-348 added provisions relating to acceptance through donation or purchase of the real and personal property located on Lots 251-252 Estate Contant Enighed.

§ 398c. Addition of lands

In furtherance of the purposes of sections 398 and 398a of this title, providing for the establishment of the Virgin Islands National Park, and in order to preserve for the benefit of the public significant coral gardens, marine life, and seascapes in the vicinity thereof, the boundaries of such park, subject to valid existing rights, are revised to include the adjoining lands, submerged lands, and waters, and Hassel Island located in Saint Thomas Harbor and adjoining lands, submerged lands, and waters, described as follows:

[*See main edition for text of North Offshore Area and South Offshore Area paragraphs*]

HASSEL ISLAND

The area known as Hassel Island in Saint Thomas Harbor consisting of approximately 135 acres, together with such adjoining lands, submerged lands, and waters as the Secretary of the Interior deems appropriate, but the boundaries shall not, in any event, extend beyond 100 yards from the mean high water mark of the island.

Lands, submerged lands, and waters added to the Virgin Islands National Park pursuant to sections 398c to 398f of this title shall be subject to administration by the Secretary of the Interior in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented.

(As amended Pub. L. 95-348, § 7(a), Aug. 18, 1978, 92 Stat. 493.)

AMENDMENTS

1978—Pub. L. 95-348 added provisions relating to boundaries of Hassel Island located in Saint Thomas Harbor and adjoining lands, submerged lands, and waters.

§ 398d. Acquisition of lands, waters, and interests therein

(a) Authorization; payment requirements; interest rate

Within the boundaries of Virgin Islands National Park as established and adjusted pursuant to sections 398 and 398a of this title, and as revised by sections 398c to 398f of this title, the Secretary of the Interior is authorized to acquire lands, waters, and interests therein by purchase, exchange or donation or with donated funds. In acquiring such lands, up to 6.6 acres, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding the current prevailing commercial rate.

(b) Employment and training of Virgin Island residents to develop, etc., area

The Secretary is authorized and directed to the maximum extent feasible to employ and train residents of the Virgin Islands to develop, maintain, and administer the Virgin Islands National Park.

(c) Payment requirements for acquisition of Hassel Island from United States

Subject to continued protection and use of Hassel Island for park and recreation purposes, and such other conditions as the Secretary may deem appropriate, the Territory of the Virgin Islands may, within, but not after, five years after August 18, 1978, by duly enacted legislation acquire all interests of the United States in Hassel Island by reimbursing the United States in an amount equal to the amount actually expended by the United States for the acquisition of lands and interests in lands and for the costs of construction of permanent improvements, if any.

(d) Rights of owners of improved property on Hassel Island to use and occupancy of property for noncommercial residential purposes; term; payment requirements; suspension of authority to condemn Royal Mail property; improved property defined; termination of rights of owners to use and occupancy

(1) Except for property deemed necessary by the Secretary of the Interior for visitor facilities or administration of the park, any owner or owners of improved property on Hassel Island on the date of its acquisition, may retain for themselves a right of use and occupancy of the property for noncommercial residential purposes for twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the owner's spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition, less the fair market value on such date of the right retained by the owner. The authority of the Secretary to acquire the property commonly known as the Royal Mail (hotel) by condemnation shall be suspended for ten years from August 18, 1978, if such owner or owners agree, in writing, within ninety days after August 18, 1978, to grant to the United States the right to purchase such property at a

purchase price, mutually agreed upon by the Secretary and the landowner, which does not exceed the fixed value of said property on July 1, 1978.

(2) As used in subsection (d)(1) of this section, "improved property" means a single-family dwelling, the construction of which began before January 1, 1977, together with such lands as are in the same ownership and appurtenant buildings located thereon.

(3) The Secretary may terminate a right of use and occupancy retained pursuant to subsection (d)(1) of this section upon his determination that such use and occupancy is being, or may be, exercised in a manner inconsistent with the purposes for which they were included within the park and upon tender to the holder of such right of the amount equal to the value of that portion of the right which remains unexpired on the date of termination.

(As amended Pub. L. 95-348, § 7(b)(1)-(3), Aug. 18, 1978, 92 Stat. 494.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-348, § 7(b)(1), (2), designated existing provisions as subsec. (a) and, as so designated, added provisions respecting acquisitions of up to 6.6 acres.

Subsecs. (b) to (d). Pub. L. 95-348, § 7(b)(3), added subsecs. (b) to (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398c, 398e of this title; title 48 section 1705.

§ 398e. Bathing and fishing rights protected; regulations; fee or charge prohibited for entrance or admission

(a) Nothing in sections 398c to 398f of this title shall be construed as authorizing any limitation on customary uses of or access to the areas specified in section 398c of this title for bathing and fishing (including setting out of fishpots and landing boats), subject to such regulations as the Secretary of the Interior may find reasonable and necessary for protection of natural conditions and prevention of damage to marine life and formations.

(b) Notwithstanding any provision of law to the contrary, no fee or charge shall be imposed for entrance or admission into the Virgin Islands National Park.

(As amended Pub. L. 95-348, § 7(b)(4), Aug. 18, 1978, 92 Stat. 495.)

AMENDMENTS

1978—Pub. L. 95-348 designated existing provisions as subsec. (a) and added subsec. (b).

§ 398f. Authorization of appropriations for acquisitions, grants, etc.

Effective October 1, 1978, there are authorized to be appropriated such sums as may be necessary for the acquisition of lands and interests in lands within the Virgin Islands National Park. For purposes of this section, acquisitions of land on Hassel Island shall be deemed to be acquisitions qualifying for payment under the provisions of paragraph (2) of the Act of June 10, 1977 (Public Law 95-42; 91 Stat. 210) [16 U.S.C. 460*l*-7). In addition to such sums as may have heretofore been appropriated for development of public facilities within the Virgin Islands National Park, effective October 1, 1978, there are authorized to be appropriated not more than $1,000,000 for restoration and rehabilitation of historic structures and for development of public facilities on Hassel Island, and not more than $500,000 as a grant to the Territory of the Virgin Islands for its use in furthering projects undertaken pursuant to the Land and Water Conservation Fund Act [16 U.S.C. 460*l*-4 et seq.], the Historic Preservation Act [16 U.S.C. 470 et seq.], or other comparable programs upon the transfer of title to the United States of all properties held by the territory on Hassel Island.

(As amended Pub. L. 95-348, § 7(b)(5), Aug. 18, 1978, 92 Stat. 495.)

REFERENCES IN TEXT

Paragraph (2) of the Act of June 10, 1977 (Public Law 95-42; 91 Stat. 210), referred to in text, amended section 460*l*-7 of this title.

The Land and Water Conservation Fund Act, referred to in text, probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified principally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of this title and Tables.

The Historic Preservation Act, referred to in text, probably means Pub. L. 89-665, Oct. 15, 1966, 80 Stat. 915, as amended, popularly known as the National Historic Preservation Act of 1966, which is classified generally to sections 470 to 470t of this title. For complete classification of this Act to the Code, see Short Title note under section 470 of this title and Tables.

AMENDMENTS

1978—Pub. L. 95-348 substituted provisions authorizing appropriations for acquisition of lands and interests in lands in the Park, provisions for acquisitions of land on Hassel Island, and provisions authorizing appropriations for restoration and rehabilitation of historic structures, etc., on Hassel Island and as a grant for the Territory, for provisions authorizing appropriations of not more than $12,250,000 for acquisition of lands pursuant to section 398d of this title.

SUBCHAPTER LVI—CHESAPEAKE AND OHIO CANAL NATIONAL HISTORICAL PARK

§ 410y. Definitions

DEDICATION TO JUSTICE WILLIAM O. DOUGLAS

Pub. L. 95-11, Mar. 15, 1977, 91 Stat. 21, provided:

"That the canal and towpath of the Chesapeake and Ohio Canal National Historical Park are hereby dedicated to Justice William O. Douglas in grateful recognition of his long outstanding service as a prominent American conservationist and for his efforts to preserve and protect the canal and towpath from development.

"Sec. 2. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to changes in existing signs, materials, maps, markers, interpretive programs or other means as will appropriately inform the public of the contributions of Justice William O. Douglas.

"Sec. 3. The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the exterior boundaries of the Chesapeake and Ohio Canal National Historical Park, an ap-

propriate memorial to Justice William O. Douglas. Such memorial shall be of such design and be located at such place within the park as the Secretary shall determine.

"Sec. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act."

§ 410y-1a. Boundary revision; exclusion of District of Columbia properties

The boundaries of the park are revised to include approximately 600 additional acres: *Provided, however,* That such additions shall not include any properties located between 30th Street and Thomas Jefferson Street in the northwest section of the District of Columbia.

(Pub. L. 95-625, title III, § 320, Nov. 10, 1978, 92 Stat. 3488.)

§ 410y-6. Availability of funds; authorization of appropriations; adjustment of appropriations

[See main edition for text of (a)]

(b) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subchapter, not to exceed $28,400,000 for land acquisition and not to exceed $17,000,000 (1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

(As amended Pub. L. 95-625, title III, § 320, Nov. 10, 1978, 92 Stat. 3488.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-625 increased land acquisition appropriations authorization to $28,400,000 from $20,400,000.

SUBCHAPTER LVII—BOSTON NATIONAL HISTORICAL PARK

§ 410z. Establishment

(a) Acquisition of properties by donation or with donated funds

In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain historic structures and properties of outstanding national significance located in Boston, Massachusetts, and associated with the American Revolution and the founding and growth of the United States, the Secretary of the Interior (hereinafter referred to as the "Secretary") may, in accordance with the provisions of this subchapter, acquire by donation or by purchase with donated funds, all lands and improvements thereon or interests therein comprising the following described areas:

[See main edition for text of (1) to (5)]

(6) Old South Meeting House, Milk and Washington Streets, Boston;

(7) Charlestown Navy Yard; and

(8) Dorchester Heights, Boston.

[See main edition for text of (b) and (c)]

(d) Charlestown Navy Yard

As used in this section, the Charlestown Navy Yard shall include the United States Ship Constitution and the lands generally depicted on the map entitled "Boundary Map: Charlestown Naval Shipyard—U.S.S. Constitution, Boston National Historical Park", numbered BONA 20,000 and dated March 1974 which shall be on file and available in the offices of the Director of the National Park Service, Department of the Interior, Washington, D.C. All right, title, and interest in the Federal properties and improvements included therein shall be transferred to the Secretary of the Interior: *Provided,* That he may, by written agreement with the Secretary of the Navy, permit the continued use of any such buildings and facilities as the Secretary of the Interior determines to be necessary for the preservation and maintenance of the Constitution, which agreement shall provide that the Department of the Navy shall transfer to the Department of the Interior funds sufficient to cover the costs attributable to the functions and services which are provided by the Department of the Interior. The Secretary shall consult with representatives of the city of Boston and the Commonwealth of Massachusetts concerning the development of suitable transportation plans consistent with the purposes for which the Navy Yard was included in the historical park and the Secretary is authorized to grant, in accordance with such terms and conditions as he deems necessary and consistent with the purposes of this subchapter easements and rights-of-way to the Commonwealth of Massachusetts or any political subdivision thereof including the Boston Redevelopment Authority for purposes of the vehicular, pedestrian and utility access to that portion of the Boston Navy Yard outside the boundaries of the Park. Such grants of easements and rights-of-way shall be upon the express condition that the grantee convey to the United States the property known as Building No. 107, being a part of the Boston Navy Yard and owned by the Boston Redevelopment Authority.

(As amended Pub. L. 95-625, title III, § 310(a), (d), Nov. 10, 1978, 92 Stat. 3478.)

AMENDMENTS

1978—Subsec. (a)(8). Pub. L. 95-625, § 310(a), added subsec. (a)(8).

Subsec. (d). Pub. L. 95-625, § 310(d), authorized grant of easements and rights-of-way for vehicular, pedestrian and utility access to the Boston Navy Yard outside the boundaries of the Boston National Historical Park upon express condition that the grantee convey to the United States the part of the Boston Navy Yard owned by the Boston Redevelopment Authority.

AUTHORIZATION OF APPROPRIATIONS

Section 310(c) of Pub. L. 95-625 provided that: "There are authorized to be appropriated such sums as may be necessary for the acquisition of lands or interests in lands designated by subsection (a) of this section [enacting subsec. (a)(8) of this section] as a component of the Boston National Historical Park, and for the development of such component."

§ 410z-1. Acquisition of additional sites

(a) Studies

In addition to the properties described in section 410z of this title, the Secretary shall study the properties described in this section to determine the feasibility and suitability of including them within the Boston National Historical Park. In making such studies, he may enter into tentative agreements with any owners thereof for their inclusion in said park and he may enter into options, for a nominal consideration, for the purchase of such properties, but no additional properties may be added to the park except by an act of the Congress. Studies shall be made of the following properties:

(1) Boston Common;

(2) Dillaway-Thomas House;

(3) Thomas Crease House (old Corner Book Store); and

(4) the following burying grounds: King's Chapel, Granary, and Copp's Hill.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95-625, title III, § 310(b), Nov. 10, 1978, 92 Stat. 3478.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 struck out former par. "(4) Dorchester Heights; and" and redesignated par. (5) as (4).

SUBCHAPTER LIX-A—LOWELL NATIONAL HISTORICAL PARK [NEW]

PART A—ESTABLISHMENT OF PARK AND PRESERVATION DISTRICT

§ 410cc. Congressional statement of findings and purpose

(a) The Congress finds that—

(1) certain sites and structures in Lowell, Massachusetts, historically and culturally the most significant planned industrial city in the United States, symbolize in physical form the Industrial Revolution;

(2) the cultural heritage of many of the ethnic groups that immigrated to the United States during the late nineteenth and early twentieth centuries is still preserved in Lowell's neighborhoods;

(3) a very large proportion of the buildings, other structures, and districts in Lowell date to the period of the Industrial Revolution and are nationally significant historical resources, including the five-and-six-tenths-mile power canal system, seven original mill complexes, and significant examples of early housing, commercial structures, transportation facilities, and buildings associated with labor and social institutions; and

(4) despite the expenditure of substantial amounts of money by the city of Lowell and the Commonwealth of Massachusetts for historical and cultural preservation and interpretation in Lowell, the early buildings and other structures in Lowell may be lost without the assistance of the Federal Government.

(b) It is the purpose of this subchapter to preserve and interpret the nationally significant historical and cultural sites, structures, and districts in Lowell, Massachusetts, for the benefit and inspiration of present and future generations by implementing to the extent practicable the recommendations in the report of the Lowell Historic Canal District Commission.

(Pub. L. 95-290, § 1, June 5, 1978, 92 Stat. 290.)

§ 410cc-1. Definitions

For purposes of this subchapter—

(1) the term "park" means the Lowell National Historical Park, established by section 410cc-11(a)(1) of this title;

(2) the term "preservation district" means the Lowell Historic Preservation District, established by section 410cc-11(a)(1) of this title;

(3) the term "Commission" means the Lowell Historic Preservation Commission established by section 410cc-31(a) of this title;

(4) the term "Secretary" means the Secretary of the Interior; and

(5) the term "report of the Lowell Historic Canal District Commission" means the report submitted to the Congress by the Lowell Historic Canal District Commission pursuant to an Act entitled "An Act to provide for a plan for the preservation, interpretation development and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell, Massachusetts, and for other purposes", approved January 4, 1975 (88 Stat. 2330).

(Pub. L. 95-290, § 2, June 5, 1978, 92 Stat. 290.)

REFERENCES IN TEXT

An Act entitled "An Act to provide for a plan for the preservation, interpretation development and use of the historic, cultural, and architectural resources of the Lowell Historic Canal District in Lowell, Massachusetts, and for other purposes", approved January 4, 1975 (88 Stat. 2330), referred to in par. (5), is Pub. L. 93-645, Jan. 4, 1975, 88 Stat. 2330, which is set out as a note under section 461 of this title.

§ 410cc-11. Establishment of Lowell National Historical Park; establishment and administration of Lowell Historic Preservation District; establishment, publication, and revision of boundaries

(a)(1) To carry out the purpose of this subchapter, there is established as a unit of the National Park System in the city of Lowell, Massachusetts, the Lowell National Historical Park. There is further established in an area adjacent to the park the Lowell Historic Preservation District, which will be administered by the Secretary and by the Commission in accordance with this subchapter. The boundaries of the park and preservation district shall be the boundaries depicted on the map entitled "Lowell National Historical Park, Massachusetts", dated March 1978, and numbered "Lowe—80,008A". Such map shall be on file and available for inspection in the office of the National Park Service, Department of the Interior, and in the office of the city clerk, city of Lowell.

(2) The Secretary shall publish in the Federal Register, as soon as practicable after June 5, 1978, a detailed description and map of the boundaries established under paragraph (1) of this subsection.

(b) The Secretary may make minor revisions of the park and preservation district boundaries established under subsection (a)(1) of this section, after consulting with the Commission and the city manager of Lowell, by publication of a revised drawing or other boundary description in the Federal Register; but no waters, lands, or other property outside of the park or preservation district boundaries established under such subsection may be added to the park or preservation district without the consent of the city manager of Lowell and the city council of Lowell. A boundary revision made under this subsection shall be effective only after timely notice in writing is given to the Congress.

(Pub. L. 95-290, title I, § 101, June 5, 1978, 92 Stat. 291.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 410cc-1 of this title.

§ 410cc-12. Consultations, cooperation, and conduct of activities by Federal entities; issuance of licenses or permits by Federal entities

(a) Any Federal entity conducting or supporting activities directly affecting the park or preservation district shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 410cc-32(e) of this title, and (B) will not have an adverse effect on the resources of the park or preservation district.

(b) No Federal entity may issue any license or permit to any person to conduct an activity within the park or preservation district unless such entity determines that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to section 410cc-32(e) of this title and will not have an adverse effect on the resources of the park or preservation district.

(Pub. L. 95-290, title I, § 102, June 5, 1978, 92 Stat. 291.)

§ 410cc-13. Authorization of appropriations

(a) General authority; maximum amounts

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter, except that—

(1) the total of the amounts authorized to be appropriated for the purpose of acquisition and development under the park management plan established pursuant to section 410cc-21(b) of this title and emergency assistance under section 410cc-25(a)(1) of this title shall not exceed $18,500,000; and

(2) the total of the amounts authorized to be appropriated for the purpose of carrying out section 410cc-32(b)(2) of this title, for the payment of grants and loans under section 410cc-33 of this title, for the acquisition of property under section 410cc-34 of this title, and for carrying out any transportation program and any educational and cultural program described in section 410cc-32(c) of this title shall not exceed $21,500,000.

(b) Commencement date

No funds shall be authorized pursuant to this section prior to October 1, 1978.

(c) Availability of appropriations

Funds appropriated under subsection (a) of this section shall remain available until expended.

(d) Aggregate amount of money expended; certifying statement to Congress as limiting availability of appropriated amounts

(1) Within 60 days after June 5, 1978, and on each subsequent October 1 and March 1, the Secretary shall submit to the Congress a statement certifying the aggregate amount of money expended by the Commonwealth of Massachusetts, the city of Lowell, and by any nonprofit entity for activities in the city of Lowell consistent with the purpose of this subchapter during the period beginning on January 1, 1974, and ending on the date such statement is submitted.

(2) The aggregate amount of funds made available by the Secretary to the Commission from funds appropriated under subsection (a)(2) of this section may not exceed the amount certified by the Secretary in the most recent statement submitted to the Congress under paragraph (1) of this subsection.

(Pub. L. 95-290, title I, § 103, June 5, 1978, 92 Stat. 292.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410cc-24, 410cc-25 of this title.

§ 410cc-14. Funding limitations

Notwithstanding any other provision of this subchapter, no authority to enter into agreements or to make payments under this subchapter shall be effective except to the extent, or in such amounts, as may be provided in advance in appropriation Acts.

(Pub. L. 95-290, title I, § 104, June 5, 1978, 92 Stat. 292.)

PART B—POWERS AND DUTIES OF SECRETARY

§ 410cc-21. Park management plan; submission date and contents of preparatory statement to Congress; establishment, submission date, contents, etc., of plan

(a) The Secretary shall submit a statement to the Congress, within two years after the date on which funds are made available to carry out this subchapter, which—

(1) reports on the progress that the Secretary has made in acquiring the properties identified under section 410cc-22 of this title, and describes the way the Secretary intends to use these properties;

(2) identifies the properties within the park and preservation district respecting which the Secretary has entered into or intends to enter into agreements relating to interpretive exhibits or programs under section 410cc-23(a) of this title;

(3)(A) reports on the progress of the Secretary in leasing a portion of the Lowell Manufacturing Company, located on Market Street, for the purpose of establishing a visitors' center in close proximity to parking and other transportation facilities, and (B) identifies any other property within the park which the Secretary has leased or intends to lease for purposes of the park;

(4) reports any other activities which the Secretary has taken or intends to take to carry out the purpose of this subchapter; and

(5) contains a tentative budget for the park and preservation district for the subsequent five fiscal years.

(b)(1) Not later than three years after the date on which funds are made available to carry out this subchapter, the Secretary shall establish and submit to the Congress a park management plan containing the information described in subsection (a) of this section. Such plan shall, upon request, be available to the public.

(2) After consulting with the Commission, the city manager of Lowell, and the Commonwealth of Massachusetts, the Secretary may make revisions in the park management plan established pursuant to paragraph (1) of this subsection by publication of such revisions in the Federal Register. A revision made under this paragraph shall be effective 90 days after written notice of the revision is submitted to the Congress.

(Pub. L. 95-290, title II, § 201, June 5, 1978, 92 Stat. 292.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410cc-13, 410cc-25, 410cc-32 of this title.

§ 410cc-22. Acquisition of property

(a) Specified property; manner of acquisition

(1) The Secretary is authorized to acquire the properties designated in paragraph (2) of this subsection, or any interest therein, by donation, purchase with donated or appropriated funds, condemnation, or otherwise. Any property or interest therein owned by the Commonwealth of Massachusetts or any political subdivision thereof may be acquired only by donation. The Secretary may initiate condemnation proceedings under this paragraph only after making every reasonable effort to acquire property through negotiations and purchase, and consulting with the Commission (if established) and the city council of Lowell.

(2) The properties referred to in paragraph (1) of this subsection are the following:

(A) The Linus Childs House, 63 Kirk Street.

(B) The H and H Paper Company (commonly referred to as Boott Mill Boarding House), 42 French Street.

(C) Old City Hall, 226 Merrimack Street.

(D) Merrimack Gatehouse, 269 Merrimack Street.

(E) The Wannalancit Textile Company, 562 Suffolk Street.

(F) The structures containing the Jade Pagoda and Solomon's Yard Goods, 210 and 200 Merrimack Street.

(b) Other property within park or preservation district; criteria for acquisition; manner of acquisition

Until the date on which the Commission conducts its first meeting, the Secretary may acquire any property within the park or preservation district not designated in subsection (a)(2) of this section, or any interest therein, if such property—

(1) is identified in the report of the Lowell Historical Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this subchapter;

(2) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 470a(a) of this title, and section 462(b) of this title; or

(3) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purposes of this subchapter unless acquired by the Secretary. Such property may be acquired only as provided in subsection (a)(1) of this section.

(c) Easements; manner of acquisition

The Secretary may acquire easements within the park for the purpose of carrying out this subchapter. Such easements may be acquired only as provided in subsection (a)(1) of this section.

(Pub. L. 95-290, title II, § 202, June 5, 1978, 92 Stat. 293.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 410cc-21 of this title.

§ 410cc-23. Agreements and technical assistance

(a) The Secretary may enter into agreements with any owner of property with national historic or cultural significance within the park to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to such property at specified, reasonable times for purposes of viewing such property or the exhibits or attending the programs established by the Secretary under this subsection; and

(2) the Secretary may make such minor improvements to such property as the Secretary deems necessary to enhance the public use and enjoyment of such property, exhibits, and programs.

(b)(1) The Secretary shall provide, upon request, technical assistance to—

(A) the city of Lowell to assist the city in establishing regulations or laws consistent with the standards and criteria established pursuant to section 410cc-32(e) of this title; and

(B) the Commission to assist the Commission in establishing the index and the standards and criteria required by section 410cc-32 of this title.

(2) The Secretary may provide to any owner of property within the park or preservation district, the Commission, the Commonwealth of

Massachusetts, the city of Lowell, and any other Federal entity or any institution such technical assistance as the Secretary considers appropriate to carry out the purpose of this subchapter.

(Pub. L. 95-290, title II, § 203, June 5, 1978, 92 Stat. 294.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410cc-21, 410cc-33 of this title.

§ 410cc-24. Withholding of funds; criteria

The Secretary may refuse to obligate or expend any money appropriated for the purposes described in section 410cc-13(a)(1) or section 410cc-13(a)(2) of this title if the Secretary determines that—

(a) the city of Lowell has failed to establish regulations or laws consistent with the standards and criteria established pursuant to section 410cc-32(e) of this title within one year after the date such standards and criteria have been established, except that the Secretary may extend such one-year period for not more than six months if the Secretary determines that the city has made a good faith effort to establish such regulations or laws;

(b) the city of Lowell has failed to notify the Commission of (1) applications for building permits or zoning variances respecting any property which is included in the index established pursuant to section 410cc-32(d) of this title, or (2) any proposals of the city of Lowell to change the regulations or laws described in paragraph (c)(1) of this subsection;

(c)(1) during the period before the city of Lowell has established regulations or laws consistent with the standards and criteria established pursuant to section 410cc-32(e) of this title, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which either the Secretary or the Commission consider to be inconsistent with such standards and criteria;

(2) after the city of Lowell has established the regulations or laws described in subparagraph (1) of this paragraph, the city of Lowell has granted any building permit or zoning variance or has taken any other action respecting any property within the park or preservation district, which either the Secretary or the Commission consider to be inconsistent with such regulations or laws; or

(d) the Commission has not made good faith efforts to (1) provide for the preservation, restoration, management, development, or maintenance of property within the park and preservation district or (2) carry out the park preservation plan approved under section 410cc-32 of this title.

(Pub. L. 95-290, title II, § 204, June 5, 1978, 92 Stat. 294.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 410cc-25 of this title.

§ 410cc-25. Administrative functions

(a) Implementation of park management plan; emergency assistance for protection of property owners; availability of funds for Commission

(1) The Secretary, acting through the National Park Service, shall take appropriate actions to implement to the extent practicable the park management plan established pursuant to section 410cc-21(b) of this title. In carrying out such plan, the Secretary shall administer the park in accordance with laws, rules, and regulations applicable to the national park system. Before the date on which the Commission conducts its first meeting, the Secretary may take any other action the Secretary deems necessary to provide owners of property with national historic or cultural significance within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this subchapter.

(2) Subject to sections 410cc-24 and 410cc-32(b) of this title, the Secretary shall make available to the Commission any funds appropriated under section 410cc-13(a)(2) of this title for the purpose of carrying out part C of this subchapter.

(b) Acceptance of donations of funds, property, or services for implementation of park management plan

Notwithstanding any other provisions of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of implementing the park management plan.

(c) Sponsorship or coordination of educational or cultural programs

The Secretary may sponsor or coordinate within the park and preservation district such educational or cultural programs as the Secretary considers appropriate to encourage appreciation of the resources of the park and preservation district.

(d) Acquisition of leases respecting property within park

The Secretary may acquire such leases respecting property within the park as may be necessary to carry out the purpose of this subchapter.

(Pub. L. 95-290, title II, § 205, June 5, 1978, 92 Stat. 295.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 410cc-13 of this title.

PART C—POWERS AND DUTIES OF PRESERVATION COMMISSION

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 410cc-25 of this title.

§ 410cc-31. Lowell Historic Preservation Commission

(a) Establishment and administrative role; composition of membership

There is established within the Department of the Interior a commission to be known as the

Lowell Historic Preservation Commission which shall administer the preservation district and provide certain services within the park in accordance with this part. The Commission shall consist of fifteen members appointed by the Secretary as follows:

(1) Three members who are members of the city council of Lowell, appointed from recommendations made by the mayor of Lowell.

(2) Three members appointed from recommendations made by the city manager of Lowell of persons who are representative of organized labor, the business community, local neighborhoods, and cultural institutions, and who are not elected officials.

(3) One member appointed from recommendations made by the president of the University of Lowell.

(4) Three members appointed from recommendations made by the Governor of the Commonwealth of Massachusetts.

(5) One member appointed from recommendations made by the Secretary of Commerce and who shall be an employee of the Department of Commerce.

(6) One member appointed from recommendations made by the Secretary of Transportation and who shall be an employee of the Department of Transportation.

(7) One member appointed from recommendations made by the Secretary of Housing and Urban Development and who shall be an employee of the Department of Housing and Urban Development.

(8) Two members who are qualified to serve on the Commission because of their familiarity with programs of the Department of the Interior involving national parks and historic preservation and who shall be an employee of the Department of the Interior.

(b) Continuation of status as appointed member for member leaving government office or becoming elected official of government; duration

If any member of the Commission who was appointed to the Commission under paragraph (1) or (4) of subsection (a) of this section as a member of the city council of Lowell or any other government leaves that office, or if any member of the Commission who was appointed from persons who are not elected officials of any government becomes an elected official of a government, such person may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such person leaves that office or becomes such an elected official, as the case may be.

(c) Terms of office and reappointment of members

(1) Except as provided in paragraph (2) of this subsection, members shall be appointed for terms of two years. A member may be reappointed only three times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1) of this section, in which case such member may be reappointed four times.

(2) Of the members first appointed pursuant to subsection (a) of this section, the following shall be appointed for terms of three years:

(A) The members appointed pursuant to paragraphs (2), (3), and (8) of such subsection.

(B) One of the members appointed pursuant to paragraph (4) of such subsection, as designated by the Secretary at the time of appointment upon recommendation of the Governor.

(d) Chairman; election by members; term of office

The chairman of the Commission shall be elected by the members of the Commission. The term of the chairman shall be two years.

(e) Vacancies; appointment and term of office; service by member after expiration of term

(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed. Any member may serve after the expiration of his term for a period not longer than thirty days.

(f) Quorum and holding of hearings

Eight members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) Meetings

The Commission shall meet at least once each month, at the call of the chairman or a majority of its members.

(h) Compensation; travel expenses and per diem

(1) Except as provided in paragraph (2) of this subsection, members of the Commission shall each be entitled to receive $100 for each day (including travel time) during which they are engaged in the performance of the duties of the Commission.

(2) Members of the Commission who are full-time officers or employees of the United States, the city of Lowell, or the Commonwealth of Massachusetts shall receive no additional pay on account of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(i) Termination

The Commission established pursuant to this subchapter shall cease to exist ten years from June 5, 1978.

(Pub. L. 95-290, title III, § 301, June 5, 1978, 92 Stat. 295.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 410cc-1 of this title.

§ 410cc-32. Park preservation plan and index

(a) Submission by Commission and approval or disapproval by Secretary of draft and final plans; procedures applicable; revisions in approved plan

(1) Within one year after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a draft park preservation plan meeting the requirements of subsection (c) of this section. The Secretary shall review the draft park pres-

ervation plan and, within ninety days after the date on which such plan is submitted to the Secretary, suggest appropriate changes in such plan to the Commission.

(2) Within eighteen months after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a park preservation plan which meets the requirements of subsection (c) of this section. The Secretary shall, within ninety days after the date on which such plan is submitted to the Secretary, approve or disapprove such plan. The Secretary may not approve such plan unless the Secretary determines that such plan would adequately carry out the purpose of this subchapter.

(3) If the Secretary disapproves a park preservation plan, the Secretary shall advise the Commission of the reasons for such disapproval together with the recommendations of the Secretary for revision of such plan. Within such period as the Secretary may designate, the Commission shall submit a revised park preservation plan to the Secretary. The Secretary shall approve or disapprove any revised park preservation plan in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(4) If the Secretary approves a park preservation plan, the Secretary shall publish notice of such approval in the Federal Register and shall forward copies of the approved plan to the Congress.

(5) Any park preservation plan or draft plan submitted to the Secretary under this subsection shall, upon request, be available to the public.

(6) No changes other than minor revisions may be made in the approved park preservation plan without the approval of the Secretary. The Secretary shall approve or disapprove any proposed change in the approved park preservation plan, except minor revisions in the same manner as required in paragraph (2) of this subsection for the approval or disapproval of the original park preservation plan.

(b) Funding availability and requirements for plan implementation, activities, etc.

(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not make any funds available to the Commission to carry out section 410cc-33 or 410cc-34 of this title until a park preservation plan has been approved under subsection (a) of this section.

(2) Before a park preservation plan is approved under subsection (a) of this section, the Secretary may make available to the Commission such funds as the Commission may request to carry out any activity specified in paragraph (3) of this section. However, no funds shall be made available under this paragraph unless a proposal describing such activity is reviewed and approved by the Secretary.

(3) The Commission may request funds from the Secretary to—

(A) carry out activities to preserve, restore, manage, develop, or maintain any property identified in subsection (c)(1) of this section;

(B) take any action the Commission considers necessary to provide owners of property with national historical or cultural significance within the park or preservation district with emergency assistance for the purpose of preserving and protecting their property in a manner consistent with the purpose of this subchapter; or

(C) acquire in accordance with section 410cc-34 of this title, any property within the park which—

(i) is identified in the report of the Lowell Historic Canal District Commission as a property which should be preserved, restored, managed, developed, or maintained in a manner consistent with the purpose of this subchapter;

(ii) is listed in the National Register of Historic Places, as maintained by the Secretary pursuant to section 470a(a) of this title, and section 462(b) of this title; or

(iii) is determined by the Secretary to be of national significance;

and would be subject to demolition or major alteration in a manner inconsistent with the purpose of this subchapter unless acquired by the Commission.

(c) Requirements for plan

Any plan submitted to the Secretary under subsection (a) of this section shall—

(1) describe the manner in which the Commission, to the extent practicable in accordance with the recommendations in the report of the Lowell Historic Canal District Commission, proposes to provide for the preservation, restoration, management, development, or maintenance of—

(A) the Welles Block, 169 Merrimack Street;

(B) the Jordan Marsh Company Building, 153 Merrimack Street and 15 Kirk Street;

(C) the Yorick Club, 91 Dutton Street;

(D) the Lowell Gas Light Company, 22 Shattuck Street;

(E) St. Anne's Church and Rectory, 237 Merrimack Street;

(F) Lowell Institution for Savings, 18 Shattuck Street;

(G) the Ahepa Building, 31 Kirk Street;

(H) Boott Mill, Foot of John Street;

(I) Lowell Manufacturing Company on Market Street; and

(J) the structure commonly referred to as the Early Residence, 45, 47, and 49 Kirk Street;

(2) identify the properties included in the index established pursuant to subsection (d) of this section;

(3) identify the properties which the Commission intends to acquire under section 410cc-34 of this title and specify how such properties shall be used;

(4) include the standards and criteria established pursuant to subsection (e) of this section;

(5) provide a detailed description of the manner in which the Commission intends to implement the grant and loan programs under section 410cc-33 of this title, including information relating to the estimated amount of such grants and the manner in which such grants shall be awarded by the Commission;

(6) provide for a transportation program by which the Commission shall provide, directly or by agreement with any person or any public or private entity, transportation services and facilities for park and preservation district visitors, including barge equipment, docking facilities, and local rail facilities;

(7) provide for educational and cultural programs to encourage appreciation of the resources of the park and preservation district; and

(8) include a tentative budget for the subsequent five fiscal years.

(d) Establishment and contents of index; modification of index

The Commission shall establish, within one year after the date on which the Commission conducts its first meeting, an index which includes—

(1) any property in the park or preservation district (except for any property identified in section 410cc-21(a)(2) of this title) which should be preserved, restored, managed, developed, maintained, or acquired by the Commission because of its national historic or cultural significance; and

(2) any property which should be preserved, restored, managed, developed, or maintained in a manner compatible with the purpose of this subchapter because of its proximity to (A) any property referred to in paragraph (1) of this subsection, or (B) any property designated in section 410cc-21(a)(2) of this title.

The index may be modified only by a majority vote of the members of the Commission, taken when a quorum is present.

(e) Standards and criteria for construction, preservation, etc., of properties within preservation district and park; authorization; establishment; revisions; publication in Federal Register

(1) The Commission shall establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of all properties within the preservation district with the advice of the Commonwealth of Massachusetts and of the Secretary, and the consent of the city manager of Lowell.

(2) The Commission shall establish the standards and criteria described in paragraph (1) of this subsection for any property within the park with the advice of the Commonwealth of Massachusetts and the city manager of Lowell and subject to the review and approval of the Secretary.

(3) The Commission shall establish standards and criteria under paragraphs (1) and (2) of this subsection within one year after the date on which the Commission conducts its first meeting. Such standards and criteria may be revised in the same manner in which they were originally established.

(4) The Secretary shall publish the standards and criteria established under paragraphs (1) and (2) of this subsection, and any revisions thereof, in the Federal Register.

(Pub. L. 95-290, title III, § 302, June 5, 1978, 92 Stat. 297.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410cc-12, 410cc-13, 410cc-23, 410cc-24, 410cc-25, 410cc-33, 410cc-34 of this title.

§ 410cc-33. Financial and technical assistance

(a) Loans to Lowell Development and Financial Corporation for loans for preservation, etc., of property; terms of loan agreement with corporation; determination of compliance by corporation with requirements for loans; repayment by corporation

The Commission may make loans to the Lowell Development and Financial Corporation (established under chapter 844 of the Massachusetts General Laws and hereinafter referred to as the "corporation") to enable the corporation to provide low interest loans for the preservation, restoration, or development of any property described in section 410cc-32(d)(1) of this title. The Commission may make any such loan to the corporation only after entering into a loan agreement with the corporation which includes the following terms:

(1) The loan to the corporation shall have a maturity of thirty-five years. At the end of such period, the corporation shall repay to the Secretary of the Treasury (in a lump sum) for deposit in the general fund of the Treasury the full amount of the loan and any additional amounts accruing to the corporation pursuant to this subsection excepting those amounts expended by the corporation for reasonable administrative expenses.

(2) The money received from the Commission, and any interest earned on such money, may be obligated by the corporation only for low interest loans made under paragraphs (6) and (7) of this subsection, except that the corporation may use such money to the extent the Commission considers reasonable to satisfy the costs of the corporation in administering the loan or procuring loan guarantees or insurance.

(3) Within five years after receiving the loan from the Commission, the corporation shall make loans under paragraphs (6) and (7) of this subsection which, in the aggregate, obligate the full amount of money received from the Commission (minus any amount required to satisfy the costs described in paragraph (2) of this subsection).

(4) As loans made under paragraphs (6) and (7) of this subsection are repaid, the corporation shall make additional loans under such paragraphs with the money made available for obligation by such repayments.

(5) The corporation shall make available to the Commission and to the Secretary, upon request, all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection.

(6) Before the corporation approves any application for a low interest loan for which money has been made available to the corporation by the Commission, the corporation shall require the prospective borrower to furnish the corporation with a statement from the Commission stating that the Commission has reviewed the application and has deter-

mined that any loan received by the prospective borrower will be spent in a manner consistent with—

(A) the standards and criteria established pursuant to section 410cc-32(e) of this title, and

(B) the goals of the park preservation plan approved under section 410cc-32(a) of this title.

(7) The corporation may approve any application for a low interest loan which meets the terms and conditions prescribed by the corporation with the approval of the Commission and for which money has been made available to the corporation by the Commission if—

(A) the prospective borrower furnishes the corporation with the statement described in paragraph (6) of this subsection;

(B) the corporation determines that such borrower has sufficient financial resources to repay the loan; and

(C) such borrower satisfies any other applicable credit criteria established by the corporation.

In order to determine whether the corporation has complied with this subsection, the Commission, or such other appropriate person or entity as the Commission may designate, shall conduct an audit at least once every two years of all accounts, financial records, and other information related to loans made under paragraphs (6) and (7) of this subsection. If the Commission determines, after conducting a hearing on the record, that the corporation has substantially failed to comply with this subsection, the outstanding balance of any loan made to the corporation under this subsection shall become payable in full upon the demand of the Commission.

(b) Grants to property owners for preservation, etc., of property; grants to persons or public or private entities for educational and cultural programs or for necessary services; terms of grant agreements; recovery of amounts for inconsistent uses

(1) The Commission may make grants to owners of property described in section 410cc-32(d)(1) of this title for the preservation, restoration, management, development, or maintenance of such property in a manner consistent with the standards and criteria established pursuant to section 410cc-32(e) of this title.

(2) The Commission, with the approval of the Secretary, may make grants to any person or any public or private entity to provide for (i) educational and cultural programs which encourage appreciation of the resources of the park and preservation district, or (ii) any planning, transportation, maintenance, or other services the Commission considers necessary to carry out the purposes of this subchapter.

(3) Grants under this subsection shall be made under agreements which specify the amount of the grant, the installments (if any) by which the grant shall be paid to the grant recipient, the purpose for which the grant may be used, and any other condition the Commission considers appropriate. The Commission shall be entitled, under the terms of any grant agreement, to recover from the recipient any funds used in a manner inconsistent with such grant agreement.

(c) Technical assistance to property owners, etc.

The Commission with the advice of the Secretary may provide technical assistance to—

(1) owners of property within the park or preservation district to assist such owners in (A) making repairs to or improvements in any property included in the index established pursuant to section 410cc-32(d) of this title, or (B) applying for loans under subsection (a) of this section; and

(2) any other person or public or private entity to assist such person or entity in taking actions consistent with the purpose of this subchapter.

(d) Availability to Secretary of all accounts, financial records, and other information relating to loans and grants

The Commission shall make available to the Secretary, upon request, all accounts, financial records, and other information of the Commission relating to grants and loans made under this section.

(e) Annual report to Congress; contents

The Secretary shall make an annual report to the Congress describing the loans, grants, and technical assistance provided under this section and under section 410cc-23 of this title. Such report shall specify the amount, recipient, and purpose of any loan, grant or technical assistance so provided and contain such additional information as the Secretary considers appropriate.

(Pub. L. 95-290, title III, § 303, June 5, 1978, 92 Stat. 300.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410cc-13, 410cc-32 of this title.

§ 410cc-34. Acquisition and disposition of property

(a) Acquisition of specified property; manner of acquisition

(1) The Commission may acquire any property designated in paragraph (3) of this subsection, any property described in section 410cc-32(d)(1) of this title, or any interest therein, by donation, by purchase with donated or appropriated funds, or by condemnation in accordance with paragraph (2) of this subsection.

(2) Only properties within the park or property designated in paragraph (3) of this subsection may be acquired by the Commission by condemnation. The Commission may initiate condemnation proceedings only after making every reasonable effort to acquire any such property through negotiations and purchase and consulting with the city council of Lowell. No lands or interests therein may be acquired by the Commission by condemnation without the approval of the Secretary.

(3) The Commission may acquire in accordance with paragraph (1) of this subsection the following properties, or any interest therein:

(A) World Furniture Building, 125 Central Street; and

(B) The Martin Building, 102-122 Central Street.

(b) Sale or lease of specified property; conditions

The Commission, with the approval of the Secretary, may sell or lease any property which it acquires under subsection (a) of this section subject to such deed restrictions or other conditions as the Commission deems appropriate to carry out the purpose of this subchapter.

(c) Agreement for disposal of specified property to Commonwealth of Massachusetts; purposes of transfers

Pursuant to a written agreement between the Commission and the Commonwealth of Massachusetts, the Commission, with the approval of the Secretary, may sell, donate, lease, or in any other manner the Commission and the Secretary deem appropriate make available to the Commonwealth any property which the Commission has acquired under subsection (a) of this section in order to provide for the administration or maintenance of such property by the Commonwealth in a manner consistent with the purpose of this subchapter.

(Pub. L. 95-290, title III, § 304, June 5, 1978, 92 Stat. 302.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 410cc-13, 410cc-32, 410cc-35 of this title.

§ 410cc-35. Powers of Commission

(a) Conduct of hearings, etc.

The Commission may for the purpose of carrying out this subchapter hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) Authorization of action by member or agent

When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(c) Receipt of necessary information from other Federal departments or agencies; information furnished upon request by Chairman

Subject to section 552a of title 5, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this subchapter. Upon request of the chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) Authorization to seek and accept donations of funds, property, or services

Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) Use of funds for obtaining additional moneys

The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) Use of mails

The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(g) Purchase, rental, donation, etc., of property, facilities, and services; manner of acquisition; transfers to Department of Interior upon termination of Commission

The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties. Any acquisition of property by the Commission shall be in accordance with section 410cc-34 of this title: *Provided, however,* That the Commission may not acquire lands or interests therein pursuant to this subsection by condemnation. Upon the termination of the Commission, all property, personal and real, and unexpended funds shall be transferred to the Department of the Interior.

(Pub. L. 95-290, title III, § 305, June 5, 1978, 92 Stat. 302.)

§ 410cc-36. Staff of Commission

(a) Appointment and compensation of Director

The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS-15 of the General Schedule.

(b) Appointment and compensation of additional personnel

The Commission may appoint and fix the pay of such additional personnel as the Commission deems desirable.

(c) Applicability of civil service provisions to appointment and compensation of Director and staff

The Director and staff of the Commission may be appointed without regard to the provisions of title 5 governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS-15 of the General Schedule.

(d) Temporary or intermittent services; procurement and compensation

Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, but at rates determined by the Commission to be reasonable.

(e) Detail of personnel from other Federal agencies represented by members on Commission; reimbursement by Commission; administrative support services by Administrator of General Services Administration; reimbursement by Commission

(1) Upon request of the Commission, the head of any Federal agency represented by members on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this subchapter.

(2) The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(Pub. L. 95-290, title III, § 306, June 5, 1978, 92 Stat. 303.)

REFERENCES IN TEXT

GS-15 of the General Schedule, referred to in subsecs. (a) and (c), is set out under section 5332 of Title 5, Government Organization and Employees.

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (c), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

SUBCHAPTER LIX-B—WAR IN THE PACIFIC NATIONAL HISTORICAL PARK [NEW]

§ 410dd. Establishment

(a) Statement of purpose

In order to commemorate the bravery and sacrifice of those participating in the campaigns of the Pacific theater of World War II and to conserve and interpret outstanding natural, scenic, and historic values and objects on the island of Guam for the benefit and enjoyment of present and future generations, the War in the Pacific National Historical Park (hereinafter in this section referred to as the "park") is hereby established.

(b) Boundaries; revisions of boundary; publication in Federal Register

The boundaries of the park shall be as generally depicted on the drawing entitled "Boundary Map, War in the Pacific National Historical Park, Guam" numbered P-24-80,000-B and dated March 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior. Following ninety days notice to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate, the Secretary may make minor revisions of the boundary of the park by publication of a revised map in the Federal Register.

(c) Acquisition of lands and interests therein; manner of acquisition

Within the boundaries of the park, the Secretary may acquire lands and interests therein by donation, purchase with donated or appropriated funds, exchange, or transfer.

(d) Identification, etc., of other points relevant to park

Other points on the island of Guam relevant to the park may be identified, established, and marked by the Secretary in agreement with the Governor of Guam.

(e) Administration of property

The Secretary shall administer property acquired in accordance with the laws generally applicable to the management of units of the National Park System.

(f) Assistance of appropriate historians for interpretation of historical aspects; language requirements for interpretative activities

The Secretary is authorized to seek the assistance of appropriate historians to interpret the historical aspects of the park. To the greatest extent possible, interpretative activities will be conducted in the following three languages: English, Chamorro, and Japanese.

(g) Negotiations for berthing and interpretation of naval vessel appropriate for accessibility to public

The Secretary is authorized to enter into negotiations with the Secretary of Defense for the berthing and interpretation of a naval vessel of World War II vintage which shall be accessible to the public on the island of Guam.

(h) Development and transmission of general management plan to congressional committees; conduct and transmission of study to congressional committees; contents

Within two years from August 18, 1978, the Secretary shall develop and transmit to the committees named in subsection (b) of this section a general management plan for the national historical park consistent with the purposes of this section. Within five years from August 18, 1978, the Secretary, through the Director of the National Park Service, shall conduct and transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a study of additional areas and sites associated with the Pacific campaign of World War II. The study shall contain a description and evaluation of each area or site, and an estimated cost of acquisition, development, and maintenance of the area or site, if appropriate, together with such additional authority as may be needed to enable him to implement his recommendations. The Secretary shall concentrate his study within Guam and the Northern Mariana Islands, but shall also investigate additional areas and sites within the Trust Territory of the Pacific Islands to the extent possible, and may include other areas and sites in the Pacific area if practicable.

(i) Employment and training of residents of Guam or Northern Mariana Islands for development, maintenance, and administration

The Secretary is authorized and directed, to the maximum extent feasible, to employ and train residents of Guam or of the Northern Mariana Islands to develop, maintain, and administer the park.

(j) Fees or charges prohibited

Notwithstanding any provision of law to the contrary, no fee or charge shall be imposed for entrance or admission into the War in the Pacific National Historical Park.

(k) Authorization of appropriations

For the purposes of the park established under this section, effective October 1, 1978, there are authorized to be appropriated such sums as may be necessary, but not to exceed $16,000,000 for the acquisition of lands or interests in lands and $500,000 for development.

(Pub. L. 95-348, § 6, Aug. 18, 1978, 92 Stat. 492.)

SUBCHAPTER LIX-C—SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK [NEW]

§ 410ee. Establishment

(a) Composition; boundary revisions

In order to provide for the preservation, restoration, and interpretation of the Spanish Missions of San Antonio, Texas, for the benefit and enjoyment of present and future generations of Americans, there is hereby established the San Antonio Missions National Historical Park (hereafter in this section referred to as the "park") consisting of Concepcion, San Jose, San Juan, and Espada Missions, together with areas and features historically associated therewith, as generally depicted on the drawing entitled "Boundary Map, San Antonio Missions National Historical Park", numbered 930-80,022-C and dated May 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and in the offices of the Superintendent of the park. After advising the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, in writing, the Secretary of the Interior (hereinafter referred to as the "Secretary") may make minor revisions of the boundaries of the park when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(b) Acquisition of lands and interests; cooperative agreements; submittal to Department of Justice

For the purposes of this section, the Secretary is authorized—

(1) to acquire by donation, purchase with donated or appropriated funds, or exchange, lands and interests therein constituting the following generally described areas in the historic missions district of the city of San Antonio, Texas—

(A) Mission San Jose y San Miguel de Aguayo;

(B) Mission Nuestra Senora de la Purisima Concepcion de Acuna;

(C) Mission San Francisco de la Espada;

(D) Espada Acequia, the section of approximately five miles along the west side of and parallel to the San Antonio River;

(E) Espada Dam and Aqueduct;

(F) Mission San Juan Capistrano;

(G) San Juan Acequia, on the east side of the San Antonio River; and

(H) such lands and interests therein which the Secretary determines are necessary or desirable to provide for public access to, and interpretation and protection of, the foregoing; and

(2) to enter cooperative agreements with the owners of any historic properties, including properties referred to in paragraph (1), in furtherance of the purposes of this section.

Each agreement under paragraph (2) shall provide among other things that the owner will hold and preserve the historic property in perpetuity and will not undertake or permit the alteration or removal of historic features or the erection of markers, structures, or buildings without the prior concurrence of the Secretary, and that the public shall have reasonable access to those portions of the property to which access is necessary in the judgment of the Secretary for the proper appreciation and interpretation of its historical and architectural value. Pursuant to such cooperative agreements and notwithstanding any other provision of law to the contrary the Secretary may, directly or by contract, construct, reconstruct, rehabilitate, or develop such buildings, structures, and related facilities including roads, trails, and other interpretive facilities on real property not in Federal ownership and may maintain and operate programs in connection therewith as he deems appropriate. Any lands or interest therein owned by the Catholic Archdiocese of San Antonio, the State of Texas, or any political subdivision of such State, including the San Antonio River Authority, may be acquired by donation only: *Provided*, That the Secretary shall submit all proposed cooperative agreements to the Department of Justice for a determination that the proposed agreements do not violate the constitutional provisions regarding the separation of church and state.

(c) Retention of rights by owners; compensation for property; termination of rights; improved property

(1) With the exception of any property deemed necessary by the Secretary for visitor facilities or administration of the park, any owner or owners of improved property on the date of its acquisition by the Secretary may, as a condition of such acquisition, retain for themselves and their successors or assigns a right of use and occupancy of the property for noncommercial residential purposes, for twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or his spouse, whichever is later. The owner shall elect the term to be reserved. The Secretary shall pay to the owner the fair market value of the property on the date of such acquisition less the fair market value on such date of the right retained by the owner.

(2) A right of use and occupancy retained or enjoyed pursuant to this subsection may be terminated with respect to the entire property by the Secretary upon his determination that the property or any portion thereof had ceased to be used for noncommercial residential purposes and upon tender to the holder of a right an amount equal to the fair market value, as of the date of tender, of that portion of the right which remains unexpired on the date of termination.

(3) The term "improved property", as used in this subsection, shall mean a detached, noncommercial residential dwelling, the construction of which was begun before January 1, 1978 (hereinafter referred to as a "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment or the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the

dwelling which are situated on the land so designated.

(d) Protection and preservation of historical and architectural values; Administration

The Secretary is authorized and directed to take prompt and appropriate action in accordance with the provisions of this section and any cooperative agreement hereunder to assure the protection and preservation of the historical and architectural values of the missions and the areas and features historically associated therewith within the boundaries of the park. The park shall be administered by the Secretary in accordance with this section and provisions of law generally applicable to units of the National Park System, including sections 1 and 2 to 4 of this title and section 461 to 467 of this title.

(e) San Antonio Missions Advisory Commission; membership; Chairman; vacancies; compensation and expenses; meeting and consultation between Secretary and Advisory Commission; termination

(1) There is hereby authorized to be established by the Secretary, a San Antonio Missions Advisory Commission. The Commission shall be composed of seven members, each appointed for a term of two years by the Secretary, as follows:

(A) one member to be appointed from recommendations made by the Governor of the State of Texas;

(B) one member to be appointed from recommendations made by the County Commissioners of Bexar County, Texas;

(C) one member to be appointed from recommendations made by the City Council of the City of San Antonio, Texas;

(D) one member to be appointed to represent non-Federal property owners whose property is operated and maintained in accordance with cooperative agreements with the Secretary pursuant to subsection (b)(2) of this section;

(E) one member from the membership of a local conservation or historical organization; and

(F) two members representing the general public.

The Secretary shall designate one member to be Chairman of the Commission and may fill any vacancy in the same manner in which the original appointment was made.

(2) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred by the Commission and may reimburse members for reasonable expenses incurred in carrying out their responsibilities under this section on vouchers signed by the Chairman.

(3) All appointments to the Commission shall be made by the Secretary within six months after November 10, 1978, and the Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission in matters relating to the park and with respect to carrying out the provisions of this section.

(4) Unless extended by Act of Congress, this Commission shall terminate ten years after the date of its first meeting with the Secretary or his designee.

(f) Authorization of appropriations; master development plan

(1) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this section, but not more than $10,000,000 for the acquisition of lands and interests in lands.

(2) For the development of essential public facilities there are authorized to be appropriated not more than $500,000. Within one year from November 10, 1978, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a final master plan for the development of the park consistent with the objectives of this section, indicating (A) the facilities needed to accommodate the health, safety, and interpretive needs of the visiting public; (B) the location and estimated cost of all facilities; and (C) the projected need for any additional facilities within the park.

(Pub. L. 95-629, title II, § 201, Nov. 10, 1978, 92 Stat. 3636.)

SUBCHAPTER LX—NATIONAL MILITARY PARKS

§ 430mm. Authorization of appropriations

For development of the Wilson's Creek National Battlefield, there are authorized to be appropriated not more than $5,640,000.

(As amended Pub. L. 95-625, title I, § 101(29), Nov. 10, 1978, 92 Stat. 3472.)

AMENDMENTS

1978—Pub. L. 95-625 substituted "$5,640,000." for "$2,285,000 (March 1969 prices), plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction cost indices applicable to the types of construction involved herein."

§ 430nn. Antietam Battlefield site; acquisition of lands, buildings, structures, and other property

"ANTIETAM NATIONAL BATTLEFIELD" REDESIGNATION OF "ANTIETAM NATIONAL BATTLEFIELD SITE"; BOUNDARY REVISION

Pub. L. 95-625, title III, § 319(b), Nov. 10, 1978, 92 Stat. 3488, provided that: "The Antietam National Battlefield Site established pursuant to such Act of April 22, 1960 [section 430oo of this title], including only scenic easements acquired pursuant to subsection (a) of this section [set out as a note under section 430oo of this title], is hereby redesignated the 'Antietam National Battlefield'. The boundaries of such battlefield are hereby revised to include the area generally depicted on the map referenced in subsection (a) of this section [set out as a note under section 430oo of this title], which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior."

§ 430oo. Acquisition of lands for preservation, protection and improvement; limitation

SCENIC EASEMENTS; ACQUISITION

Pub. L. 95-625, title III, § 319(a), Nov. 10, 1978, 92 Stat. 3488, provided that: "In furtherance of the purposes of the Act entitled 'An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland', approved April 22,

1960 (74 Stat. 79) [this section], and other Acts relative thereto [see section 430nn of this title], the Secretary is hereby authorized to acquire only scenic easements over the additional lands generally depicted on the map entitled 'Boundary Map, Antietam National Battlefield, Washington County, Maryland,' numbered 302-80.005-A and dated June 1977."

SUBCHAPTER LXI—NATIONAL AND INTERNATIONAL MONUMENTS AND MEMORIALS

§ 431. National monuments; reservation of lands; relinquishment of private claims

NATIONAL MONUMENTS ESTABLISHED UNDER PRESIDENTIAL PROCLAMATION

The following National Monuments were established under the proclamations listed:

Proc. No.		
4611.	Admiralty Island National Monument, Alaska	92 Stat.—
4612.	Aniakchak National Monument, Alaska	92 Stat.—
4613.	Becharof National Monument, Alaska	92 Stat.—
4614.	Bering Land Bridge National Monument, Alaska	92 Stat.—
4615.	Cape Krusenstern National Monument, Alaska	92 Stat.—
4616.	Denali National Monument, Alaska	92 Stat.—
4617.	Gates of the Arctic National Monument, Alaska	92 Stat.—
4620.	Kenai Fjords National Monument, Alaska	92 Stat.—
4621.	Kobuk Valley National Monument, Alaska	92 Stat.—
4622.	Lake Clark National Monument, Alaska	92 Stat.—
4623.	Misty Fiords National Monument, Alaska	92 Stat.—
4624.	Noatak National Monument, Alaska	92 Stat.—
4625.	Wrangell-St. Elias National Monument, Alaska	92 Stat.—
4626.	Yukon-Charley National Monument, Alaska	92 Stat.—
4627.	Yukon Flats National Monument, Alaska	92 Stat.—

ALIBATES FLINT QUARRIES AND TEXAS PANHANDLE PUEBLO CULTURE NATIONAL MONUMENT

The Alibates Flint Quarries and Texas Panhandle Pueblo Culture National Monument, authorized to be established by Pub. L. 89-154, Aug. 31, 1965, 79 Stat. 587, was redesignated the Alibates Flint Quarries National Monument by Pub. L. 95-625, title III, § 321(c), Nov. 10, 1978, 92 Stat. 3488.

GLACIER BAY NATIONAL MONUMENT

The Glacier Bay National Monument, Alaska, which was established by Proc. No. 1733, 43 Stat. 1988, had its boundaries enlarged by Proc. No. 4618, 92 Stat.—.

KATMAI NATIONAL MONUMENT

The Katmai National Monument, Alaska, which was established by Proc. No. 1487, 40 Stat. 1855, had its boundaries enlarged by Proc. No. 4619, 92 Stat.—.

NATIONAL MEMORIALS

National Memorial	*Authorization*
Signers of the Declaration of Independence Memorial, District of Columbia.	Authorized by Pub. L. 95-260, Apr. 17, 1978, 92 Stat. 197

ALBERT EINSTEIN MEMORIAL

Conveyance of property to National Academy of Sciences for erection and maintenance of a Memorial to Albert Einstein on south side of Square Numbered 88 between 21st Street, 22d Street, and Constitution Avenue, District of Columbia, with reverter of title when no longer used for memorial purposes or public access is restricted, was authorized by Pub. L. 95-625, title VI, § 612, Nov. 10, 1978, 92 Stat. 3521.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 407, 432, 434, 1133 of this title; title 43 section 1714.

§ 432. Permits to examine ruins, excavations, and gathering of objects; regulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 434, 1133 of this title; title 20 section 78a; title 43 section 1714.

§ 433. American antiquities

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 432, 434, 1133 of this title; title 20 section 78a; title 43 section 1714.

§ 433c. Acceptance of donations of lands and funds; acquisition of land

AUTHORIZATION OF APPROPRIATIONS

Section 4 of Pub. L. 92-586, as amended by Pub. L. 95-625, title I, § 101(21), Nov. 10, 1978, 92 Stat. 3472, provided that: "There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act [enacting section 433f-1, amending sections 433a to 433c and 433e, and repealing section 433d of this title, and enacting provisions set out as a note hereunder], but not more than $370,000 shall be appropriated for the acquisition of lands and interests in lands and not more than $9,327,000 shall be appropriated for development. The sums authorized in this section shall be available for acquisition and development undertaken subsequent to the approval of this Act [such sections]."

§ 441. Badlands National Park; establishment

When a quantum, satisfactory to the Secretary of the Interior, of the privately owned lands lying within the area hereinafter described shall have been acquired and transferred to the United States for park purposes, without expense to the Federal Treasury, such areas are dedicated and set apart as a national park for the benefit and enjoyment of the people, under the name of the Badlands National Park: *Provided*, That the State of South Dakota shall have first constructed the highways hereinafter described.

(As amended Nov. 10, 1978, Pub. L. 95-625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In text, "park" and "Park" were substituted for "monument" and "Monument", respectively, on authority of Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e-1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441a. Boundaries

The areas to be included in said Badlands National Park are situated in the State of South Dakota and lie within the boundaries particularly described as follows: Beginning at the northeast corner section 13, township 3 south, range 18 east, Black Hills meridian; thence west one-fourth mile; thence south one mile; thence

west one-fourth mile; thence south one-fourth mile; thence west one mile; thence south one-fourth mile; thence west one-fourth mile; thence north one mile; thence west one and one-fourth miles; thence north one-half mile; thence west three miles, to the northwest corner section 18, township 3 south, range 18 east, Black Hills meridian.

[See main edition for text of second to eighth undesignated paragraphs]

(As amended Nov. 10, 1978, Pub. L. 95–625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In first undesignated paragraph, "Park" was substituted for "Monument" on authority of Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e–1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441b. Construction of highway by State of South Dakota

The establishment of said park is conditioned upon the State of South Dakota first constructing the following highway in a manner satisfactory to the Secretary of the Interior: A highway commencing at the corporation limits of the town of Interior, thence going in a northwesterly direction to and over Big Foot Pass, and through the region known as The Pinnacles; thence in a westerly direction to Sage Creek, being a total distance of about thirty miles.

(As amended Nov. 10, 1978, Pub. L. 95–625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In text, "park" was substituted for "monument" on authority of Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e–1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441c. Administration; franchises for hotel and lodge accommodations

The administration, protection, and promotion of said Badlands National Park shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of sections 1 and 2 to 4 of this title: *Provided,* That in advance of the fulfillment of the conditions herein the Secretary of the Interior may grant franchises for hotel and for lodge accommodations under the provisions of this section.

(As amended Nov. 10, 1978, Pub. L. 95–625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In text, "Park" was substituted for "Monument" on authority of Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e–1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441d. Examinations, excavations, and gathering of objects of interest within park

The Secretary of the Interior is authorized to permit examinations, excavations, and gathering of objects of interest within said park by any person or persons whom he may deem properly qualified to conduct such examinations, excavations, or gatherings, subject to such rules and regulations as he may prescribe: *Provided,* That the examinations, excavations, and gatherings are undertaken only for the benefit of some reputable museum, university, college, or other recognized scientific or educational institution, with a view to increasing the knowledge of such objects and aiding the general advancement of geological and zoological science.

(As amended Nov. 10, 1978, Pub. L. 95–625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In text, "park" was substituted for "monument" on authority of Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e–1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441e–1. Change in name of Badlands National Monument

The area formerly known as the "Badlands National Monument", established by Presidential Proclamation of January 25, 1939 (53 Stat. 2521), shall henceforth be known as the "Badlands National Park".

(Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

§ 441f. Adjustment and redefinition of boundaries

In order to establish a more appropriate boundary for the Badlands National Park and to consolidate Federal land ownership therein, the Secretary of the Interior, in his discretion, is authorized to adjust and redefine the exterior boundaries of the national park by appropriate reductions or additions of land: *Provided,* That the total acreage of the national park, as revised pursuant to sections 441f to 441i of this title, shall not exceed its area of approximately one hundred fifty-four thousand one hundred and nineteen acres as of May 7, 1952.

(As amended Nov. 10, 1978, Pub. L. 95–625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In text, "Park" and "park" were substituted for "Monument" and "monument", respectively, on authority of Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e–1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441g. Orders to effectuate revision of boundaries; publication

The revision of boundaries of the national park, as authorized in section 441f of this title, shall be accomplished by the issuance, by the Secretary of the Interior, of an appropriate order, or orders, such order or orders to be effective upon publication in the Federal Register: *Provided,* That federally owned land under the administrative jurisdiction of any other department or agency of the Federal Government shall be included within the park only with the approval of the head of such department or agency.

(As amended Nov. 10, 1978, Pub. L. 95-625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In text, "park" was substituted for "monument" on authority of Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e-1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441h. Jurisdiction of mining and mineral rights; patents

Administrative jurisdiction over all Federal lands eliminated from the park, by the issuance of an order or orders of the Secretary of the Interior, is transferred to the Secretary of Agriculture for use, administration, and disposition in accordance with the provisions of title III of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1010 et seq.] and the related provisions of title IV thereof: *Provided*, That all of such lands formerly set apart and reserved from the public domain shall be subject to the mining and minerals-leasing laws: *And provided further*, That any disposition of any such lands formerly set apart and reserved from the public domain shall be evidenced by patents issued by the Secretary of the Interior.

(As amended Nov. 10, 1978, Pub. L. 95-625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In text, "park" was substituted for "monument" on authority of Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e-1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441i. Exchanges of land

In order that exchanges of land may be effectuated for the purposes of sections 441f to 441i of this title, the Secretary of the Interior is authorized, in his discretion and in accordance with the provisions of section 733 of title 33, section 255 of title 40 and section 175 of title 50, to accept, on behalf of the United States, title to any land or interests in land within the exterior boundaries of the Badlands National Park as revised pursuant to sections 441f to 441i of this title, and, in exchange therefor, with the approval and concurrence of the Secretary of Agriculture, the Secretary of the Interior may patent lands of approximately equal value which were formerly set apart and reserved from the public domain within the Badlands Fall River soil conservation project, SD-LU-1. In effectuating such exchanges, in lieu of conveyances by the Secretary of the Interior, the Secretary of Agriculture may convey lands of approximately equal value within said project which have been acquired heretofore by the United States. All such exchanges shall, in all other respects, be considered as exchanges under the provisions of section 32c, title III, of the Bankhead-Jones Farm Tenant Act [7 U.S.C. 1011(c)] and shall otherwise be in accordance with provisions of said Act [7 U.S.C. 1000 et seq.]; except that, upon acceptance of title to any lands so acquired by the United States under this section, such lands and any other lands acquired otherwise by the United States within the park boundaries shall be a part of that area. In consummating land exchanges hereunder upon an equitable basis, patents and instruments of conveyance may be issued, and property may be accepted, by the United States, subject to such reservations as may be necessary or in the public interest.

(As amended Nov. 10, 1978, Pub. L. 95-625, title VI, § 611, 92 Stat. 3521.)

CHANGE OF NAME

In text, "Park" and "park" were substituted for "Monument" and "monument", respectively, on authority of Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e-1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441j. Revision of boundaries

In order to include lands of outstanding scenic and scientific character in the Badlands National Park, the boundaries of the park are revised as generally depicted on the map entitled "Badlands National Monument", numbered NM-BL-7021B, dated August 1967, which is on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior may make minor adjustments in the boundaries, but the total acreage in the park may not exceed the acreage within the boundaries depicted on the map referred to herein. Lands within the boundaries of the park that are acquired by the United States shall be subject to the laws and regulations applicable to the park.

(As amended Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

In text, "Park" and "park" were substituted for "Monument" and "monument", respectively, on authority of Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e-1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441k. Acquisition of property for park; consent of State or Oglala Sioux Tribe of South Dakota; transfer from Federal agency to administrative jurisdiction of Secretary; easements

(a) Subject to the provisions of subsection (b) of this section, the Secretary of the Interior may, within the boundaries of the park, acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that any lands or interests in lands owned by the State of South Dakota, a political subdivision thereof, or the Oglala Sioux Tribe of South Dakota may be acquired only with the consent of owner. Notwithstanding any other provision of law, lands and interests in lands located within the park under the administrative jurisdiction of any other Federal agency may be transferred to the administrative jurisdiction of the Secretary without a transfer of funds.

(b) As to lands located within the boundaries of the park but outside the boundaries of the gunnery range referred to in section 441*l* of this title, the Secretary of the Interior may acquire only rights-of-way and scenic easements.

(As amended Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

In text, "park" was substituted for "monument" on authority of Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e–1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 411*l*. Exchange of lands; transfer from Federal agency to administrative jurisdiction of Secretary; terms and conditions of purchase

Inasmuch as (A) most of the lands added to the Badlands National Park by section 441j of this title are inside the boundaries of the Pine Ridge Sioux Indian Reservation, (B) such lands are also within a tract of land forty-three miles long and twelve and one-half miles wide which is in the north-western part of such Indian reservation and has been used by the United States Air Force as a gunnery range since the early part of World War II, (C) the tribal lands within such gunnery range were leased by the Federal Government and the other lands within such gunnery range were purchased by the Federal Government from the individual owners (mostly Indians), (D) the Department of the Air Force has declared most of such gunnery range lands excess to its needs and such excess lands have been requested by the National Park Service under the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], (E) the leased tribal lands and the excess lands within the enlarged Badlands National Park are needed for the park, (F) the other excess lands in such gunnery range should be restored to the former Indian owners of such lands, and (G) the tribe is unwilling to sell its tribal lands for inclusion in the national park, but is willing to exchange them or interests therein for the excess gunnery range lands, which, insofar as the lands within the gunnery range formerly held by the tribe are concerned, should be returned to Indian ownership in any event, the Congress hereby finds that such exchange would be in the national interest and authorizes the following actions: (a) All Federal lands and interests in lands within the Badlands Air Force gunnery range that are outside the boundaries of the park and that heretofore or hereafter are declared excess to the needs of the Department of the Air Force shall be transferred to the administrative jurisdiction of the Secretary of the Interior without a transfer of funds.

[*See main edition for text of* (b)]

(As amended Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

In provision preceding subsec. (a) and in subsec. (a), "Park" and "park" were substituted for "Monument" and "monument", respectively, on authority of Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e–1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441m. Disposition of excess gunnery range lands and reservation lands; purchase; terms and conditions; life estates and use restrictions

(a) Gunnery range lands; reservation lands

All Federal lands and interests in lands within the Badlands Air Force gunnery range that are outside the boundaries of the park, and that have been declared excess to the needs of the Department of the Air Force, and that are not purchased by former owner under section 441*l*(b) of this title, and all lands that have been acquired by the United States under authority of title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), and subsequent relief Acts, situated within the Pine Ridge Indian Reservation, administrative jurisdiction over which has heretofore been transferred by the President from the Secretary of Agriculture to the Secretary of the Interior by Executive Order Numbered 7868, dated April 15, 1938, shall be subject to the following provisions of this section.

(b) Purchases

Any former Indian owner of land that is within the Badlands Air Force gunnery range and outside the boundaries of the park and that has not been declared excess to the needs of the Department of the Air Force on August 8, 1968, may, within the period specified in section 441*l*(b)(5) of this title, elect (i) to purchase an available tract of land described in subsection (a) of this section of substantially the same value, or (ii) to purchase the tract formerly owned by him at such time as such tract is declared excess and transferred to the Secretary of the Interior as provided in section 441*l*(a) of this title.

(c) Life estates and use restrictions

Any former Indian owner of a tract of land within the boundaries of the park that was acquired by the United States for the Badlands Air Force gunnery range, and that is transferred to the Secretary of the Interior pursuant to section 441k of this title, may, within the period specified in section 441*l*(b)(5) of this title, elect (i) to acquire from the Secretary of the Interior a life estate in such tract at no cost, subject to restrictions on use that may be prescribed in regulations applicable to the park, or (ii) to purchase an available tract of land described in subsection (a) of this section of substantially the same value.

(d) Purchase restrictions

Purchases under subsection (b) and clause (ii) of subsection (c) of this section shall be made on the terms provided in section 441*l*(b) of this title.

(As amended Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

In subsecs. (a), (b), and (c), "park" was substituted for "monument" on authority of Pub. L. 95–625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e–1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441n. Lands outside gunnery range; exchange of lands; reservation of mineral rights; grazing and mineral development rights of Indians; execution of instruments; trust title

(a) Exchange of lands; mineral and grazing rights

Title to all Federal lands and interests in land within the boundaries of the Badlands Air Force gunnery range that are outside the boundaries of the park, and that are transferred to the administrative jurisdiction of the Secretary of the Interior as provided in section 441*l*(a) of this title, including lands hereafter declared to be excess, and that are not selected under sections 441*l*(b) or 441m of this title, and title to all lands within the boundaries of the park that were acquired by the United States for the Badlands Air Force gunnery range, subject to any life estate conveyed pursuant to section 441m(c) of this title and subject to restrictions on use that may be prescribed in regulations applicable to the park, which regulations may include provisions for the protection of the black-footed ferret, may be conveyed to the Oglala Sioux Tribe in exchange (i) for the right of the United States to use all tribal land within the park for park purposes, including the right to manage fish and wildlife and other resources and to construct visitor use and administrative facilities thereon, and (ii) for title to three thousand one hundred fifteen and sixty-three one-hundredths acres of land owned by the Oglala Sioux Tribe and located in the area of the Badlands Air Force gunnery range which is not excess to the needs of the Department of the Air Force and which is encompassed in civil action numbered 859 W.D. in the United States District Court for the District of South Dakota, if such exchange is approved by the Oglala Sioux Tribal Council. The lands acquired under paragraph (ii) shall become a part of the Badlands Air Force gunnery range retained by the Department of the Air Force. The United States and the Oglala Sioux Tribe shall reserve all mineral rights in the lands so conveyed. The right of the United States to use for park purposes lands that were tribally owned prior to August 8, 1968, shall not impair the right of the Oglala Sioux Tribe to use such lands for grazing purposes and mineral development, including development for oil and gas.

[*See main edition for text of* (b) *and* (c)]

(As amended Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

In subsec. (a), "park" was substituted for "monument" on authority of Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e-1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 441o. Facilities for interpretation of park and history of Sioux Nation; conveyance of reservation lands; submission of terms to Congressional committees

The Oglala Sioux Tribe may convey and the Secretary of the Interior may acquire not to exceed forty acres of tribally owned lands on the Pine Ridge Indian Reservation for the purpose of erecting thereon permanent facilities to be used to interpret the natural phenomena of the park and the history of the Sioux Nation: *Provided*, That no such conveyance shall be made until sixty days after the terms thereof have been submitted to the Interior and Insular Affairs Committees of the House of Representatives and the Senate.

(As amended Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521.)

CHANGE OF NAME

In text, "park" was substituted for "monument" on authority of Pub. L. 95-625, title VI, § 611, Nov. 10, 1978, 92 Stat. 3521, set out as section 441e-1 of this title, which redesignated the Badlands National Monument as the Badlands National Park.

§ 450bb. Harpers Ferry National Historical Park; establishment; acceptance of donations of land, etc.

AUTHORIZATION OF APPROPRIATIONS

Section 4 of act June 30, 1944, as amended by Pub. L. 93-466, § 1(3); Pub. L. 95-625, title I, § 101(14), Nov. 10, 1978, 92 Stat. 3471, provided that: "In addition to such sums as have heretofore been appropriated, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this act [sections 450bb to 450bb-2 of this title], but not more than $1,300,000 for the acquisition of lands and interests in lands, and not more than $12,385,000 for development."

§ 450dd. De Soto National Memorial; establishment

AUTHORIZATION OF APPROPRIATIONS

Section 3 of act Mar. 11, 1948, as amended Aug. 21, 1950, ch. 768, 64 Stat. 469; Sept. 8, 1960, Pub. L. 86-728, § 1B, 74 Stat. 856, Nov. 10, 1978, Pub. L. 95-625, title I, § 101(8), 92 Stat. 3471, provided that: "There is hereby authorized to be appropriated such sums, not to exceed $292,000, as may be necessary to carry out the provisions of this Act [sections 450dd and 450dd-1 of this title]."

["$292,000" has been substituted for "$175,000" as the probable intent of Congress notwithstanding the language of section 101(8) of Pub. L. 95-625, which directed that $5,108,000" be substituted for "$3,108,000", this latter substitution appearing to be a printing error repeating the fund limitation specified for Cowpens National Battlefield Site, South Carolina. See House of Representatives Committee Report No. 95-1165.]

§ 450mm-1. Designation of land and improvements; size

The Secretary of the Interior shall designate for inclusion in Fort Clatsop National Memorial land and improvements thereon located in Clatsop County, Oregon, which are associated with the winter encampment of the Lewis and Clark Expedition, known as Fort Clatsop, including the site of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) utilized by that expedition and adjacent portions of the old trail which led overland from the fort to the coast: *Provided*, That the total area so designated shall contain no more than one hundred and thirty acres.

(As amended Pub. L. 95-625, title III, § 311, Nov. 10, 1978, 92 Stat. 3478.)

AMENDMENTS

1978—Pub. L. 95-625 authorized the Secretary to include in the Fort Clatsop National Memorial the site

of the salt cairn (specifically, lot number 18, block 1, Cartwright Park Addition of Seaside, Oregon) utilized by the Lewis and Clark Expedition and authorized an increase to one hundred and thirty from one hundred and twenty-five acres for the area.

§ 450qq-4. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 450qq to 450qq-4 of this title, but not to exceed $28,350,000 for land acquisition and $6,565,000 for development.

(As amended Pub. L. 95-625, title I, § 101(4), Nov. 10, 1978, 92 Stat. 3470.)

AMENDMENTS

1978—Pub. L. 95-625 increased development appropriations authorization to $6,565,000 from $2,900,000.

SUBCHAPTER LXIII—NATIONAL SEASHORE RECREATIONAL AREAS

§ 459c. Point Reyes National Seashore; purposes; authorization for establishment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c-2, 459c-4, 459c-5, 459c-6, 459c-6b, 459c-7 of this title.

§ 459c-1. Description of area; boundary map; availability; publication in Federal Register; "Bear Valley Ranch" right-of-way

(a) The Point Reyes National Seashore shall consist of the lands, waters, and submerged lands generally depicted on the map entitled "Boundary Map, Point Reyes National Seashore", numbered 612-80,008-E and dated May 1978.

The map referred to in this section shall be on file and available for public inspection in the Offices of the National Park Service, Department of the Interior, Washington, District of Columbia. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing, the Secretary may make minor revisions of the boundaries of the Point Reyes National Seashore when necessary by publication of a revised drawing or other boundary description in the Federal Register.

[See main edition for text of (b)]

(As amended Pub. L. 95-625, title III, § 318(a), Nov. 10, 1978, 92 Stat. 3486.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 substituted as a description of the area the lands generally depicted on Boundary Map numbered 612-80,008-E and dated May 1978 for prior such depiction on Boundary Map numbered 612-80,008-B, and dated August 1974; included submerged lands in the description; made the map specifically available in the Washington, District of Columbia, Office; and authorized minor revisions of boundaries and publication thereof in the Federal Register after advising Congressional committees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c, 459c-2, 459c-4, 459c-5, 459c-6, 459c-6b, 459c-7 of this title.

§ 459c-2. Acquisition of property

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c-4, 459c-5, 459c-6, 459c-6b, 459c-7 of this title.

§ 459c-4. Point Reyes National Seashore; establishment; notice in Federal Register; distribution of notice and map

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c-2, 459c-5, 459c-6, 459c-6b, 459c-7 of this title.

§ 459c-5. Owner's reservation of right of use and occupancy for fixed term of years or life

(a) Election of term; fair market value; termination; notification; lease of federal lands; restrictive covenants, offer to prior owner or leaseholder

The owner of improved property or of agricultural property on the date of its acquisition by the Secretary under sections 459c to 459c-7 of this title may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of sections 459c to 459c-7 of this title, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under sections 459c to 459c-7 of this title, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of sections 459c to 459c-7 of this title. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or was a leaseholder thereon immediately before its acquisition by the United States.

(b) Improved and agricultural property defined

As used in sections 459c to 459c-7 of this title, the term "improved property" shall mean a private noncommercial dwelling, including the land on which it is situated, whose construction was begun before September 1, 1959, or, in the case of areas added by action of the Ninety-fifth Congress, May 1, 1978, and structures accessory thereto (hereinafter in this subsection referred to as "dwelling"), together with such amount and locus of the property adjoining and in the same ownership as such dwelling as

the Secretary designates to be reasonably necessary for the enjoyment of such dwelling for the sole purpose of noncommercial residential use and occupancy. In making such designation the Secretary shall take into account the manner of noncommercial residential use and occupancy in which the dwelling and such adjoining property has usually been enjoyed by its owner or occupant. The term "agricultural property" as used in sections 459c to 459c-7 of this title means lands which were in regular use for, or were being converted to agricultural, ranching, or dairying purposes as of May 1, 1978, together with residential and other structures related to the above uses of the property.

(c) Payment deferral; scheduling; interest rate

In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of sections 459c to 459c-7 of this title, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.

(As amended Pub. L. 95-625, title III, § 318(b)-(d), Nov. 10, 1978, 92 Stat. 3487.)

REFERENCES IN TEXT

Section 459c-3 of this title, included within reference to sections 459c to 459c-7 of this title referred to in text, was repealed by Pub. L. 91-223, § 2(b), Apr. 3, 1970, 84 Stat. 90.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625, § 318(b), extended provision to agricultural property; provided for: retention rights of heirs and assigns, retention rights for term of twenty-five years or for term ending with death of owner or spouse, whichever was later, as elected by owner, which provision previously authorized retention for term of fifty years, termination of right of retention and notice thereof, and for lease of Federally-owned lands, subject to restrictive covenants, with first offer to prior owner or leaseholder; and included clause relating to donation of property to the United States.

Subsec. (b). Pub. L. 95-625, § 318(c), defined "improved property" to include private dwelling, the construction of which was begun, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, and included definition of "agricultural property".

Subsec. (c). Pub. L. 95-625, § 318(d), added subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c-2, 459c-4, 459c-6, 459c-6b, 459c-7 of this title.

§ 459c-6. Administration of property; law governing; utilization of authority for conservation and management of natural resources; hunting and fishing regulations; consultation with local officials

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c-2, 459c-4, 459c-5, 459c-6b, 459c-7 of this title.

§ 459c-6a. The Clem Miller Environmental Education Center; designation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c-2, 459c-4, 459c-5, 459c-6, 459c-6b, 459c-7 of this title.

§ 459c-6b. Cooperation with utilities district; land use and occupancy; terms and conditions

The Secretary shall cooperate with the Bolinas Public Utilities District to protect and enhance the watershed values within the seashore. The Secretary may, at his or her discretion, permit the use and occupancy of lands added to the seashore by action of the Ninety-fifth Congress by the utilities district for water supply purposes, subject to such terms and conditions as the Secretary deems are consistent with the purposes of sections 459c to 459c-7 of this title.

(Pub. L. 87-657, § 8, as added Pub. L. 95-625, title III, § 318(e), Nov. 10, 1978, 92 Stat. 3487.)

REFERENCES IN TEXT

Section 459c-3 of this title, included within reference to sections 459c to 459c-7 of this title referred to in text, was repealed by Pub. L. 91-223, § 2(b), Apr. 3, 1970, 84 Stat. 90.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c-2, 459c-4, 459c-5, 459c-6, 459c-7 of this title.

§ 459c-7. Authorization of appropriations; restriction on use of land

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 459c to 459c-7 of this title, except that no more than $57,500,000 shall be appropriated for the acquisition of land and waters and improvements thereon, and interests therein, and incidental costs relating thereto, in accordance with the provisions of such sections: *Provided*, That no freehold, leasehold, or lesser interest in any lands hereafter acquired within the boundaries of the Point Reyes National Seashore shall be conveyed for residential or commercial purposes except for public accommodations, facilities, and services provided pursuant to sections 20 to 20g and 462(h) of this title.

(Pub. L. 87-657, § 9, formerly § 8, Sept. 13, 1962, 76 Stat. 541; Pub. L. 89-666, § 1(b), Oct. 15, 1966, 80 Stat. 919; renumbered § 7 and amended Pub. L. 91-223, §§ 1, 2(c), Apr. 3, 1970, 84 Stat. 90; renumbered § 8, Pub. L. 94-544, § 4(b), Oct. 18, 1976, 90 Stat. 2515; renumbered § 8, Pub. L. 94-567, § 7(b), Oct. 20, 1976, 90 Stat. 2695; renumbered § 9, Pub. L. 95-625, title III, § 318(e), Nov. 10, 1978, 92 Stat. 3487.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 459c-2, 459c-4, 459c-5, 459c-6, 459c-6b of this title.

§ 459e. Fire Island National Seashore

[See main edition for text of (a)]

(b) Boundaries

The boundaries of the national seashore shall extend from the easterly boundary of the main

unit of Robert Moses State Park eastward to Moriches Inlet and shall include not only Fire Island proper, but also such islands and marshlands in the Great South Bay, Bellport Bay, and Moriches Bay adjacent to Fire Island as Sexton Island, West Island, Hollins Island, Ridge Island, Pelican Island, Pattersquash Island, and Reeves Island and such other small and adjacent islands, marshlands, and wetlands as would lend themselves to contiguity and reasonable administration within the national seashore and, in addition, the waters surrounding said area to distances of one thousand feet in the Atlantic Ocean and up to four thousand feet in Great South Bay and Moriches Bay and, in addition, mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, all as delineated on a map identified as "Fire Island National Seashore", numbered OGP-0004, dated May 1978. The Secretary shall publish said map in the Federal Register, and it may also be examined in the offices of the Department of the Interior.

(As amended Pub. L. 95-625, title III, § 322(a), Nov. 10, 1978, 92 Stat. 3488.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-625 inserted phrase "the main unit of" preceding "Robert Moses State Park", included in the boundaries the mainland terminal and headquarters sites, not to exceed a total of twelve acres, on the Patchogue River within Suffolk County, New York, and substituted map numbered OGP—0004, dated May 1978 for OGP—0002, dated June 1964 and requirement of publishing the map in the Federal Register for prior provision for filing the map with the Federal Register.

§ 459e-1. Acquisition of property

[*See main edition for text of* (a) *to* (f)]

(g) Undeveloped tracts and property; suspension of condemnation authority; natural state

The authority of the Secretary to condemn undeveloped tracts within the Dune District as depicted on map entitled "Fire Island National Seashore" numbered OGP-0004 dated May, 1978, is suspended so long as the owner or owners of the undeveloped property therein maintain the property in its natural state. Undeveloped property within the Dune District that is acquired by the Secretary shall remain in its natural state.

(As amended Pub. L. 95-625, title III, § 322(b), Nov. 10, 1978, 92 Stat. 3489.)

AMENDMENTS

1978—Subsec. (g). Pub. L. 95-625 added subsec. (g).

§ 459e-6. Administration, protection, and development

[*See main edition for text of* (a)]

(b) Access to Davis Park-Smith Point County Park area

Access to that section of the seashore lying between the easterly boundary of the Ocean Ridge portion of Davis Park and the westerly boundary of the Smith Point County Park shall be provided by ferries and footpaths only, and no roads shall be constructed in this section except such minimum roads as may be necessary for park maintenance vehicles. No development or plan for the convenience of visitors shall be undertaken therein which would be incompatible with the preservation of the flora and fauna or the physiographic conditions now prevailing, and every effort shall be exerted to maintain and preserve this section of the seashore as well as that set forth in the preceding paragraph in as nearly their present state and condition as possible.

[*See main edition for text of* (c)]

(As amended Pub. L. 95-625, title III, § 322(c), Nov. 10, 1978, 92 Stat. 3489.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-625 substituted "Ocean Ridge portion of Davis Park" for "Brookhaven town park at".

§ 459e-9. Authorization of appropriations

There is hereby authorized to be appropriated not more than $23,000,000 for the acquisition of lands and interests in land pursuant to sections 459e to 459e-9 of this title.

(As amended Pub. L. 95-625, title III, § 322(d), Nov. 10, 1978, 92 Stat. 3489.)

AMENDMENTS

1978—Pub. L. 95-625 substituted "$23,000,000" for "$18,000,000".

§ 459h-10. Authorization of appropriations

There are authorized to be appropriated not more than $22,162,000 for the acquisition of lands and interests in lands and not more than $24,224,000 for development.

(As amended Pub. L. 95-625, title I, § 101(13), Nov. 10, 1978, 92 Stat. 3471.)

AMENDMENTS

1978—Pub. L. 95-625 substituted "$24,224,000 for development." for "$17,774,000 (June 1970 prices) for development, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein."

§ 459i. Cumberland Island National Seashore; purposes, establishment; boundary revisions; notification of Congressional committees, publication in Federal Register

In order to provide for public outdoor recreation use and enjoyment of certain significant shoreline lands and waters of the United States, and to preserve related scenic, scientific and historical values, there is established in the State of Georgia the Cumberland Island National Seashore (hereinafter referred to as the "seashore") consisting of the area generally depicted on the drawing entitled "Boundary Map, Cumberland Island National Seashore", numbered CUIS-40,000D, and dated January 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") may after notifying the Com-

mittees on Interior and Insular Affairs of the United States House of Representatives and United States Senate in writing, make minor adjustments in the boundary of the seashore from time to time by publication of a revised drawing or other boundary description in the Federal Register, but the total acreage within the boundaries shall not exceed forty thousand five hundred acres.

(As amended Pub. L. 95-625, title III, § 323, Nov. 10, 1978, 92 Stat. 3489.)

AMENDMENTS

1978—Pub. L. 95-625 substituted reference to Boundary Map "numbered CUIS 40,000D, and dated January 1978" for "numbered CUIS—40,000B, and dated June 1971".

§ 459i-9. Authorization of appropriations

There are authorized to be appropriated not to exceed $28,500,000 for the acquisition of lands and interests in lands and not to exceed $27,840,000 for development of the seashore.

(As amended Pub. L. 95-625, title II, § 201(3), Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95-625 increased land acquisition appropriations authorization to $28,500,000 from $10,500,000.

SUBCHAPTER LXVIII—NATIONAL CONSERVATION RECREATIONAL AREAS

§ 460k-3. Charges and fees; permits; regulations; penalties; enforcement

The Secretary may establish reasonable charges and fees and issue permits for public use of national wildlife refuges, game ranges, national fish hatcheries, and other conservation areas administered by the Department of the Interior for fish and wildlife purposes. The Secretary may issue regulations to carry out the purposes of this subchapter. A violation of such regulations shall be a petty offense (section 1 of title 18) with maximum penalties of imprisonment for not more than six months, or a fine of not more than $500, or both. The provisions of this subchapter and any such regulation shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.

(As amended Pub. L. 95-616, § 3(e), Nov. 8, 1978, 92 Stat. 3111.)

AMENDMENTS

1978—Pub. L. 95-616 provided for designation of enforcement personnel.

SUBCHAPTER LXIX—OUTDOOR RECREATION PROGRAMS

PART B—LAND AND WATER CONSERVATION FUND

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1c, 398f, 460y-9, 460ii-4, 469h, 470b, 471i, 1249, 1273, 1278, 1534 of this title; title 7 section 1011; title 40 section 885; title 40 App. section 214; title 42 sections 1962c-2, 3188a, 3534; title 43 section 1712.

§ 460*l*-5. Land and water conservation funds; establishment; covering certain revenues and collections into fund

During the period ending September 30, 1989, there shall be covered into the land and water conservation fund in the Treasury of the United States, which fund is hereby established and is hereinafter referred to as the "fund", the following revenues and collections:

[*See main edition for text of* (a) *and* (b)]

(c) Other revenues

(1) In addition to the sum of the revenues and collections estimated by the Secretary of the Interior to be covered into the fund pursuant to this section, as amended, there are authorized to be appropriated annually to the fund out of any money in the Treasury not otherwise appropriated such amounts as are necessary to make the income of the fund not less than $300,000,000 for fiscal year 1977, and $900,000,000 for fiscal year 1978 and for each fiscal year thereafter through September 30, 1989.

[*See main edition for text of* (2)]

(As amended Pub. L. 95-42, § 1(1), June 10, 1977, 91 Stat. 210.)

AMENDMENTS

1977—Subsec. (c)(1). Pub. L. 95-42 substituted "and $900,000,000 for fiscal year 1978" for "$600,000,000 for fiscal year 1978, $750,000,000 for fiscal year 1979, and $900,000,000 for fiscal year 1980".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*-7, 460*l*-10, 2508 of this title; title 40 section 885.

§ 460*l*-7. Allocation of land and water conservation fund for State and Federal purposes

There shall be submitted with the annual budget of the United States a comprehensive statement of estimated requirements during the ensuing fiscal year for appropriations from the fund. Not less than 40 per centum of such appropriations shall be available for Federal purposes. Those appropriations from the fund up to and including $600,000,000 in fiscal year 1978 and up to and including $750,000,000 in fiscal year 1979 shall continue to be allocated in accordance with this section. There shall be credited to a special account within the fund $300,000,000 in fiscal year 1978 and $150,000,000 in fiscal year 1979 from the amounts authorized by section 460*l*-5 of this title. Amounts credited to this account shall remain in the account until appropriated. Appropriations from the special account shall be available only with respect to areas existing and authorizations enacted prior to the convening of the Ninety-fifth Congress, for acquisition of lands, waters, or interests in lands or waters within the exterior boundaries, as aforesaid, of—

(1) the national park system;

(2) national scenic trails;

(3) the national wilderness preservation system;

(4) federally administered components of the National Wild and Scenic Rivers System; and

(5) national recreation areas administered by the Secretary of Agriculture.

(As amended Pub. L. 95–42, § 1(2), June 10, 1977, 91 Stat. 210.)

REFERENCES IN TEXT

The convening of the Ninety-fifth Congress, referred to in text, took place on Jan. 4, 1977.

AMENDMENTS

1977—Pub. L. 95–42 added last four sentences providing that appropriations from the fund up to and including $600,000,000 in fiscal year 1978 and up to and including $750,000,000 in fiscal year 1979 continue to be allocated in accordance with this section, that there be credited to a special account within the fund $300,000,000 in fiscal year 1978 and $150,000,000 in fiscal year 1979 from the amounts authorized by section 460*l*–5 of this title, that amounts credited to this account remain in the account until appropriated, and that appropriations from the special account be available only with respect to areas existing and authorizations enacted prior to the convening of the Ninety-fifth Congress, for acquisition of lands, waters, or interests in lands or waters within the exterior boundaries of the national park system, national scenic trails, the national wilderness preservation system, federally administered components of the National Wild and Scenic Rivers System, and national recreation areas administered by the Secretary of Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 79c, 398f, 1249 of this title.

§ 460*l*–8. Financial assistance to States

[See main edition for text of (a) to (e)]

(f) Requirements for project approval; conditions; progress payments; payments to Governors or State officials or agencies; State transfer of funds to public agencies; conversion of property to other uses; reports to Secretary; accounting; records; audit; evaluations by States; discrimination prohibited

[See main edition for text of (1) to (6)]

(7) Each State shall evaluate its grant programs annually under guidelines set forth by the Secretary and shall transmit, so as to be received by the Secretary no later than December 31, such evaluation to the Secretary, together with a list of all projects funded during that fiscal year, including, but not limited to, a description of each project, the amount of Federal funds employed in such project, the source of other funds, and the estimated cost of completion of the project. Such evaluation and the publication of same shall be eligible for funding on a 50–50 matching basis. The results of the evaluation shall be annually reported on a fiscal year basis to the Bureau of Outdoor Recreation, which agency shall forward a summary of such reports to the Committees on Interior and Insular Affairs of the United States Congress by no later than March 1 of each year. Such report to the committees shall also include an analysis of the accomplishments of the fund for the period reported, and may also include recommendations as to future improvements for the operation of the Land and Water Conservation Fund program.

[See main edition for text of (8); (g)]

(As amended Pub. L. 95–625, title VI, § 606, Nov. 10, 1978, 92 Stat. 3519.)

AMENDMENTS

1978—Subsec. (f)(7). Pub. L. 95–625 provided that grant program evaluations be transmitted so as to be received by the Secretary no later than December 31 and that reports to Congressional committees be made by no later than March 1 of each year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460*l*–17 of this title; title 42 sections 3338, 4519.

§ 460*l*–9. Allocation of land and water conservation fund moneys for Federal purposes

(a) Allowable purposes and subpurposes; acquisition of land and waters and interests therein; offset for specified capital costs

Moneys appropriated from the fund for Federal purposes shall, unless otherwise alloted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes:

[See main edition for text of (1) and (2)]

(3) Appropriations allotted for the acquisition of land, waters, or interests in land or waters as set forth under the headings "National Park System; Recreation Areas" and "National Forest System" in paragraph (1) of this subsection shall be available therefor notwithstanding any statutory ceiling on such appropriations contained in any other provision of law enacted prior to the convening of the Ninety-fifth Congress; except that for any such area expenditures may not exceed a statutory ceiling during any one fiscal year by 10 per centum of such ceiling or $1,000,000, whichever is greater. The Secretary of the Interior shall, prior to the expenditure of funds which would cause a statutory ceiling to be exceeded by $1,000,000 or more, and with respect to each expenditure of $1,000,000 or more in excess of such a ceiling, provide written notice of such proposed expenditure not less than thirty calendar days in advance to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(b) Acquisition restrictions

Appropriations from the fund pursuant to this section shall not be used for acquisition unless such acquisition is otherwise authorized by law: *Provided, however,* That appropriations from the fund may be used for preacquisition work in instances where authorization is imminent and where substantial monetary savings could be realized.

(c) Boundary changes; donations

Whenever the Secretary of the Interior determines that to do so will contribute to, and is necessary for, the proper preservation, protection, interpretation, or management of an area of the national park system, he may, following timely notice in writing to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate of

his intention to do so, and by publication of a revised boundary map or other description in the Federal Register, (i) make minor revisions of the boundary of the area, and moneys appropriated from the fund shall be available for acquisition of any lands, waters, and interests therein added to the area by such boundary revision subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area: *Provided, however,* That such authority shall expire ten years from the date of enactment of the authorizing legislation establishing such boundaries; and (ii) acquire by donation, purchase with donated funds, transfer from any other Federal agency, or exchange, lands, waters, or interests therein adjacent to such area, except that in exercising his authority under this clause (ii) the Secretary may not alienate property administered as part of the national park system in order to acquire lands by exchange, the Secretary may not acquire property without the consent of the owner, and the Secretary may acquire property owned by a State or political subdivision thereof only by donation. Prior to making a determination under this subsection, the Secretary shall consult with the duly elected governing body of the county, city, town, or other jurisdiction or jurisdictions having primary taxing authority over the land or interest to be acquired as to the impacts of such proposed action, and he shall also take such steps as he may deem appropriate to advance local public awareness of the proposed action. Lands, waters, and interests therein acquired in accordance with this subsection shall be administered as part of the area to which they are added, subject to the laws and regulations applicable thereto.

(As amended Pub. L. 95-42, § 1(3)-(5), June 10, 1977, 91 Stat. 210, 211.)

REFERENCES IN TEXT

The convening of the Ninety-fifth Congress, referred to in subsec. (a)(3), took place on Jan. 4, 1977.

AMENDMENTS

1977—Subsec. (a)(3). Pub. L. 95-42, § 1(3), added subsec. (a)(3).

Subsec. (b). Pub. L. 95-42, § 1(4), added proviso that appropriations from the fund may be used for preacquisition work in instances where authorization is imminent and where substantial monetary savings could be realized.

Subsec. (c). Pub. L. 95-42, § 1(5), added subsec. (c).

§ 460*l*-11. Transfers to and from land and water conservation fund

[*See main edition for text of* (*a*)]

(b) Refunds of gasoline taxes for certain nonhighway purposes or used by local transit systems and motorboat fuel taxes from conservation fund into general fund of Treasury

There shall be paid from time to time from the land and water conservation fund into the general fund of the Treasury amounts estimated by the Secretary of the Treasury as equivalent to—

(1) the amounts paid before October 1, 1985, under section 6421 of title 26 (relating to amounts paid in respect of gasoline used for certain nonhighway purposes or by local transit systems) with respect to gasoline used after December 31, 1964, in motorboats, on the basis of claims filed for periods ending before October 1, 1984; and

(2) 80 percent of the floor stocks refunds made before October 1, 1985, under section 6412(a)(2) of title 26 with respect to gasoline to be used in motorboats.

(As amended Pub. L. 95-599, title V, § 503(b), Nov. 6, 1978, 92 Stat. 2757.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-599 substituted "1984" for "1979" and "1985" for "1980" wherever appearing.

PART C—WATER RESOURCES PROJECTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 43 sections 1527, 1541.

§ 460*l*-14. Facilities of project modifications to be provided without written indication of intent

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460*l*-17, 460*l*-18 of this title.

SUBCHAPTER LXXI—BUFFALO NATIONAL RIVER

§ 460m-11. Water resource projects

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 460m-14. Authorization of appropriations

For the acquisition of lands and interests in lands, there are authorized to be appropriated not more than $39,948,000. For development of the national river, there are authorized to be appropriated not to exceed $9,371,000.

(As amended Pub. L. 95-625, title II, § 201(2), Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95-625 increased land acquisition appropriations authorization to $39,948,000 from $30,071,500.

SUBCHAPTER LXXI-A—NEW RIVER GORGE NATIONAL RIVER [NEW]

§ 460m-15. Congressional statement of purpose; establishment; administration, protection, and development; utilization of other authorities; boundary description, availability for public inspection

For the purpose of conserving and interpreting outstanding natural, scenic, and historic values and objects in and around the New River Gorge and preserving as a free-flowing stream an important segment of the New River in West Virginia for the benefit and enjoyment of present and future generations, the Secretary of the Interior (hereinafter referred to as the

"Secretary") shall establish and administer the New River Gorge National River. The Secretary shall administer, protect, and develop the national river in accordance with the provisions of sections 1 and 2 to 4 of this title, as amended and supplemented; except that any other statutory authority available to the Secretary for the preservation and management of natural resources may be utilized to the extent he finds such authority will further the purposes of this subchapter. The boundaries of the national river shall be as generally depicted on the drawing entitled "Proposed New River Gorge National River" numbered NERI–20,002, dated July 1978, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(Pub. L. 95–625, title XI, § 1101, Nov. 10, 1978, 92 Stat. 3544.)

§ 460m–16. Acquisition of property

(a) Authority of Secretary; manner; donation of State lands; improved and unimproved properties

Within the boundaries of the New River Gorge National River, the Secretary may acquire lands and waters or interests therein by donation, purchase with donated or appropriated funds, transfer, or exchange. Lands owned by the State of West Virginia or a political subdivision thereof may be acquired by donation only. The authority of the Secretary to condemn in fee, improved properties as defined in subsection (c) of this section shall not be invoked as long as the owner of such improved property holds and uses it in a manner compatible with the purposes of this subchapter. The Secretary may acquire any such improved property without the consent of the owner whenever he finds that such property has undergone, since January 1, 1978, or is imminently about to undergo, changes in land use which are incompatible with the purposes of the national river. The Secretary may acquire less than fee interest in any improved or unimproved property within the boundaries of the national river.

(b) Non-federally owned lands; cooperative agreements affecting properties of historical significance

On non-federally owned lands within the national river boundaries, the Secretary is authorized to enter into cooperative agreements with organizations or individuals to mark or interpret properties of significance to the history of the Gorge area.

(c) "Improved property" defined

For the purposes of this Act, the term "improved property" means (i) a detached single family dwelling, the construction of which was begun before January 1, 1977 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, together with any structures accessory thereto which were so used on or before January 1, 1977, or (iii) commercial and small business properties which were so used on or before January 1, 1977, the purpose of which is determined by the Secretary to contribute to visitor use and enjoyment of the national river. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1977, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(d) Owner's reservation of right of use and occupancy for fixed term of years or for life; election by owner; fair market value; termination; notification

The owner of an improved property, as defined in this subchapter, on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential, or agricultural purposes, or the continuation of existing commercial operations, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value of the property on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this subchapter, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(Pub. L. 95–625, title XI, § 1102, Nov. 10, 1978, 92 Stat. 3545.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note under section 1 of this title and Tables.

§ 460m–17. Lands and areas plan; submission to Congressional committees

(a) [1] Within two years from November 10, 1978, the Secretary shall submit, in writing, to the House Committee on Interior and Insular Affairs, the Senate Committee on Energy and Natural Resources and the Committees on Appropriations of the United States Congress, a detailed plan which shall indicate—

[1] So in original. Section was enacted without a subsection (b).

(i) the lands and areas which he deems essential to the protection and public enjoyment of the natural, scenic, and historic values and objects of this national river;

(ii) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this national river;

(iii) the annual acquisition program (including the level of funding) which he recommends for the ensuing four fiscal years; and

(iv) the feasibility and suitability of including within the boundaries of the national river, the section of the New River from Fayetteville to Gauley Bridge, and reasons therefor.

(Pub. L. 95–625, title XI, § 1103, Nov. 10, 1978, 92 Stat. 3546.)

§ 460m–18. Zoning laws and ordinances; establishment; assistance; restrictions; variances

The Secretary shall on his own initiative, or at the request of any local government having jurisdiction over land located in or adjacent to the Gorge area, assist and consult with the appropriate officials and employees of such local government in establishing zoning laws or ordinances which will assist in achieving the purposes of this subchapter. In providing assistance pursuant to this section, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

(1) have the effect of restricting incompatible commercial and industrial use of all real property in or adjacent to the Gorge area;

(2) aid in preserving the character of the Gorge area by appropriate restrictions on the use of real property in the vicinity, including, but not limited to, restrictions upon building and construction of all types; signs and billboards; the burning of cover; cutting of timber; removal of topsoil, sand, or gravel; dumping, storage, or piling of refuse; or any other use which would detract from the esthetic character of the Gorge area; and

(3) have the effect of providing that the Secretary shall receive advance notice of any hearing for the purpose of granting a variance and any variance granted under, and of any exception made to, the application of such law or ordinance.

(Pub. L. 95–625, title XI, § 1104, Nov. 10, 1978, 92 Stat. 3546.)

§ 460m–19. Mineral lands

(a) Mining; prohibition and limitation

Notwithstanding any other provision of law, no surface mining of any kind shall be permitted on federally owned lands within the boundary of the national river where the subsurface estate is not federally owned. Underground mining on such lands may be permitted by the Secretary only if—

(1) the mining operation will have no significant adverse impact on the public use and enjoyment of the national river;

(2) the mining operation will disturb the minimum amount of surface necessary to extract the mineral; and

(3) the surface is not significantly disturbed, unless there is no technologically feasible alternative.

(b) Timber harvesting

The harvesting of timber on federally owned lands within the national river boundary is prohibited, except insofar as it is necessary for the Secretary to remove trees for river access, historic sites, primitive campgrounds, scenic vistas, or as may be necessary from time to time for reasons of public health and safety.

(c) Civil action; jurisdiction; recovery

The owner of a mineral estate subject to this section who believes he has suffered a loss by operation of this section, may bring an action only in a United States district court to recover just compensation, which shall be awarded if the court finds that such loss constitutes a taking of property compensable under the Constitution.

(Pub. L. 95–625, title XI, § 1105, Nov. 10, 1978, 92 Stat. 3546.)

§ 460m–20. Hunting and fishing zones; designation; rules and regulations, consultation

The Secretary may permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the New River Gorge National River in accordance with applicable Federal and State laws, and he may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, administration, fish or wildlife management, or public use and enjoyment. Except in emergencies, any rules and regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State agency responsible for hunting and fishing activities.

(Pub. L. 95–625, title XI, § 1106, Nov. 10, 1978, 92 Stat. 3547.)

§ 460m–21. Project work prohibition; advisement to Secretary; report to Congress

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), on or directly affecting the New River Gorge National River, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secretary. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above the New River Gorge National River or on any stream tributary thereto which will not invade the area or diminish the scenic, recreation, and fish and wildlife values present in the area on November 10, 1978. No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such river was established, as determined by the Secre-

tary, or request appropriations to begin construction on any such project whether heretofore or hereafter authorized, without advising the Secretary in writing of its intention to do so at least sixty days in advance, and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this section and would effect the national river and the values to be protected by it under this section.

(Pub. L. 95-625, title XI, § 1107, Nov. 10, 1978, 92 Stat. 3547.)

REFERENCES IN TEXT

The Federal Power Act (41 Stat. 1063) as amended (16 U.S.C. 791a et seq.), referred to in text, is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classificaton of this Act to the Code, see section 791a of this title and Tables.

§ 460m-22. General management plan; submission to Congressional committees

Within three years from November 10, 1978, the Secretary shall develop and transmit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs, a general management plan for the protection and development of the national river consistent with the purposes of this subchapter, indicating—

(1) measures for the preservation of the area's resources;

(2) indications of types and general intensities of development (including visitor circulation and transportation patterns, systems and modes) associated with public enjoyment and use of the area, including general locations, timing of implementation, and anticipated costs;

(3) identification of and implementation commitments for visitor carrying capacities for all areas of the unit; and

(4) indications of potential modifications to the external boundaries of the unit, and the reasons therefor.

(Pub. L. 95-625, title XI, § 1109, Nov. 10, 1978, 92 Stat. 3548.)

§ 460m-23. Cooperation

The Secretary of the Army shall cooperate with the Secretary of the Interior concerning the water requirements of the national river. The Secretary of the Army shall provide for release of water from the Bluestone Lake project consistent with that project's purposes and activities in sufficient quantity and in such manner to facilitate protection of biological resources and recreational use of the national river.

(Pub. L. 95-625, title XI, § 1110, Nov. 10, 1978, 92 Stat. 3548.)

§ 460m-24. Class I or class II redesignation for clean air purposes

For the purposes of part C of the Clean Air Act [42 U.S.C. 7470 et seq.], the State may redesignate the national river only as class I or class II.

(Pub. L. 95-625, title XI, § 1111, Nov. 10, 1978, 92 Stat. 3548.)

REFERENCES IN TEXT

The Clean Air Act, referred to in text, is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. Part C of the Clean Air Act is classified generally to part C (§ 7470 et seq.) of subchapter I of chapter 85 of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

§ 460m-25. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary for the purposes of this subchapter, but not to exceed $20,000,000 for the acquisition of lands and interests in lands, and not to exceed $500,000 for development.

(Pub. L. 95-625, title XI, § 1112, Nov. 10, 1978, 92 Stat. 3548.)

SUBCHAPTER LXXIII—DELAWARE WATER GAP NATIONAL RECREATION AREA

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1274 of this title.

§ 460o-1. Acquisition of lands

(a) Authority of Secretary of Army; transfer of jurisdiction over lands to Secretary of the Interior; authority of such Secretary; retention of use and occupancy rights; termination and transfer of authority and funds; acquisition priorities

The Secretary of the Army is authorized and directed to acquire, by such means as he may deem to be in the public interest, and as a part of his acquisition of properties for the project, lands and interests therein within the boundaries of the area, as generally depicted on the drawing entitled "Proposed Tocks Island National Recreation Area" dated and numbered September 1962, NRA-TI-7100, which drawing is on file in the Office of the National Park Service, Department of the Interior. In acquiring these lands, the Secretary of the Army may utilize such statutory authorities as are available to him for the acquisition of project lands: *Provided*, That the Secretary of the Army shall acquire no lands or interests in land by exchange for lands or interests in land in Federal ownership unless the latter are in the States of Pennsylvania, New Jersey, or New York. Periodically, and as soon as practicable after such lands and interests within the area are acquired, the Secretary of the Army shall transfer jurisdiction thereover to the Secretary of the Interior for the purposes of this subchapter. Beginning on November 10, 1978, the Secretary of the Interior is authorized to acquire for purposes of the recreation area established under this subchapter all lands and in-

terests therein within the exterior boundaries of the area depicted on the drawing referred to in this subsection (including any lands within such exterior boundaries designated for acquisition by the Secretary of the Army in connection with the project referred to in this subsection). In exercising such authority, the Secretary of the Interior may permit the retention of rights of use and occupancy in the same manner as provided in the case of acquisitions by the Secretary of the Army under subsection (d) of this section. On November 10, 1978, the acquisition authorities of any other Federal agency contained in this subsection shall terminate and the head of any other Federal agency shall transfer to the Secretary of the Interior jurisdiction over all lands and interests therein acquired by said agency under the authority of this subchapter, or any other authority of law which lands are within the exterior boundaries of the area depicted on the drawing referred to in this subsection. On November 10, 1978, all unexpended balances available to any other Federal agency for acquisition of land within the exterior boundaries referred to in the preceding sentence shall be transferred to the Secretary of the Interior to be used for such purposes. In carrying out his acquisition authority under this section the Secretary shall give priority to the following:

(1) completion of acquisition of lands for which condemnation proceedings have been started pursuant to the authorization of the project referred to in this subsection;

(2) acquisition of lands of beneficial owners, not being a corporation, who in the judgment of the Secretary would suffer hardship if acquisition of their lands were delayed;

(3) acquisition of lands on which, in the judgment of the Secretary, there is an imminent danger of development that would be incompatible with the purposes of the recreation area;

(4) acquisition of lands of beneficial owners, not being a corporation, who are willing to sell their lands provided they are able to continue to use it for noncommercial residential purposes for a limited period of time which will not, in the judgment of the Secretary, unduly interfere with the development of public use facilities for such national recreation area, pursuant to the authorization for such area;

(5) acquisition of scenic easements when, in the judgment of the Secretary, such easements are sufficient to carry out the purposes for which such national recreation area was authorized; and

(6) acquisition of lands necessary to preserve the integrity of the recreation area.

[*See main edition for text of* (b) *to* (d)]

(As amended Pub. L. 95-625, title III, § 316, Nov. 10, 1978, 92 Stat. 3483.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 authorized acquisition of lands within the exterior boundaries of the area by the Secretary of the Interior, retention of use and occupancy rights, termination of Federal agency authority over lands and transfer of authority and funds to the Secretary of the Interior, and prescribed acquisition priorities for the Secretary of the Interior.

SUBCHAPTER LXXV—WHISKEYTOWN-SHASTA-TRINITY NATIONAL RECREATION AREA

§ 460q-9. Authorization of appropriations

There are hereby authorized to be appropriated for the acquisition of lands and interests in land pursuant to the provisions of this subchapter not more than $21,600,000. There are also authorized to be appropriated not more than $24,649,000 for the development of recreation facilities pursuant to the provisions of this subchapter.

(As amended Pub. L. 95-625, title I, § 101(27), Nov. 10, 1978, 92 Stat. 3472.)

AMENDMENTS

1978—Pub. L. 95-625 increased development appropriations authorization to $24,649,000 from $22,700,000.

SUBCHAPTER LXXIX—INDIANA DUNES NATIONAL LAKESHORE

§ 460u-9. Authorization of appropriations; general management plan; submittal to Congressional committees

The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than $9,440,000 for development. By October 1, 1979, the Secretary shall develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a general management plan detailing the development of the national lakeshore consistent with the preservation objectives of this subchapter, indicating:

[*See main edition for text of* (1) *to* (4)]

(As amended Pub. L. 95-625, title I, § 101(16), Nov. 10, 1978, 92 Stat. 3472.)

CODIFICATION

Amendment by section 101(16) of Pub. L. 95-625 was, in the original, to section 10 of Pub. L. 89-761 but has been executed to section 9 of Pub. L. 89-761, as the probable intent of Congress, in view of the prior redesignation of former section 10 of Pub. L. 89-761 as 9 by Pub. L. 94-549, § 9, Oct. 18, 1976, 90 Stat. 2533.

AMENDMENTS

1978—Pub. L. 95-625 increased development appropriations authorization to $9,440,000 from $8,500,000.

SUBCHAPTER LXXXIII—KING RANGE NATIONAL CONSERVATION AREA

§ 460y-4. Authority of Secretary

The Secretary is authorized—

[*See main edition for text of* (1) *and* (2)]

(3) Procedure for acquisition of land or interests in land by exchange

In the exercise of his authority to acquire land or interests in land by exchange under this subchapter, to accept title to any non-Federal land located within the Area and to

convey to the grantor of such land not to exceed an equal value of surveyed, unappropriated, and unreserved public lands or interests, in lands and appropriated funds when in his judgment the exchange will be in the public interest, and in accordance with the following:

[*See main edition for text of (A)*]

(B) If the lands or interests in lands offered in exchange for public lands have a value at least equal to two-thirds of the value of the public lands, the exchange may be completed upon payment to the Secretary of the difference in value, or the submittal of a cash deposit or a performance bond in an amount at least equal to the difference in value assuring that additional lands acceptable to the Secretary and at least equal to the difference in value will be conveyed to the Government within a time certain to be specified by the Secretary. Any such payment made to the Secretary shall be deposited in the Treasury as a miscellaneous receipt.

[*See main edition for text of (C) and (D); (4) to (9)*]

(As amended Pub. L. 95-352, § 2(1), Aug. 20, 1978, 92 Stat. 516.)

AMENDMENTS

1978—Par. (3)(B). Pub. L. 95-352 added provisions relating to deposit of receipts into Treasury.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460y-9 of this title.

§ 460y-9. Authorization of appropriations

(a) There are authorized to be appropriated such sums as may be necessary to accomplish the purposes of this subchapter, but not to exceed $1,500,000 for the purchase of lands and interests in lands and not to exceed $3,500,000 for the construction and improvements.

(b) In addition to any amounts authorized to be appropriated under subsection (a) of this section, there are authorized to be appropriated for fiscal years beginning on or after October 1, 1979, for the acquisition of lands and interests in lands under this subchapter—

(1) from the Land and Water Conservation Fund (established under the Land and Water Conservation Fund Act of 1965 [16 U.S.C. 460*l*-4 et seq.]) not to exceed $5,000,000, and

(2) from any other sources an amount not to exceed the sum of (A) $5,000,000, and (B) an amount equal to the amount deposited in the Treasury under section 460y-4(3)(B) of this title after August 20, 1978,

such sums to remain available until expended.

(As amended Pub. L. 95-352, § 2(2), (3), Aug. 20, 1978, 92 Stat. 516.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (b)(1), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-352, § 2(2), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 95-352, § 2(3), added subsec. (b).

SUBCHAPTER LXXXV—SAWTOOTH NATIONAL RECREATION AREA

§ 460aa-12. Authorization of appropriations; availability of land and water conservation fund money

There are authorized to be appropriated for the purposes of this subchapter not more than $47,802,000 for the acquisition of lands and interests in lands and not more than $26,241,000 for development. Money appropriated from the land and water conservation fund shall be available for the acquisition of lands, waters, and interests therein within the recreation area.

(As amended Pub. L. 95-625, title II, § 202, Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95-625 increased land acquisition appropriations authorization to $47,802,000 from $19,802,000.

SUBCHAPTER LXXXVI—GOLDEN GATE NATIONAL RECREATION AREA

§ 460bb-1. Composition and boundaries; boundary revisions; notification of Congressional committees; publication in Federal Register

(a) The recreation area shall comprise the lands, waters, and submerged lands generally depicted on the map entitled: "Revised Boundary Map, Golden Gate National Recreation Area", numbered NRA-GG-80,003-K and dated October 1978. The authority of the Secretary to acquire lands in the tract known as San Francisco Assessor's Block number 1592 shall be limited to an area of not more than one and nine-tenths acres. Notwithstanding any other provision of this subchapter, the Secretary shall not acquire the Marin County Assessor's parcels numbered 199-181-01, 199-181-06, 199-181-08, 199-181-13, and 199-181-14, located in the Muir Beach portion of the recreation area.

[*See main edition for text of (b)*]

(As amended Pub. L. 95-625, title III, § 317(a), Nov. 10, 1978, 92 Stat. 3484.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 substituted as a description of the recreation area the lands, etc., generally depicted on Revised Boundary Map, Golden Gate National Recreation Area, numbered NRA-GG-80, 003-K and dated October 1978 for prior such depiction on predecessor Boundary Map numbered NRA-GG-80, 003-G, and dated September 1974; limited amount of acquisition in the tract known as San Francisco Assessor's Block number 1592; prohibited acquisition of Marin County Assessor's parcels located in the Muir Beach area; and deleted provisions including certain Marin and San Francisco County properties and excluding certain Marin County properties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460bb-2 of this title.

§ 460bb-2. Acquisition policy

[*See main edition for text of* (a) *to* (h)]

(i) New construction; limitation; notice and public hearing; exceptions

New construction and development within the boundaries described in section 460bb-1(a) of this title on lands under the administrative jurisdiction of a department other than that of the Secretary is prohibited, except that improvements on lands which have not been transferred to his administrative jurisdiction may be reconstructed or demolished. Any such structure which is demolished may be replaced with an improvement of similar size, following consultation with the Secretary or his designated representative, who shall conduct a public hearing at a location in the general vicinity of the area, notice of which shall be given at least one week prior to the date thereof. The foregoing limitation on construction and development shall not apply to expansion of those facilities known as Letterman General Hospital or the Western Medical Institute of Research.

(j) Owner's reservation of right of use and occupancy for residential purposes for fixed term of years or for life; election by owner; adjustment of compensation; termination of use and occupancy inconsistent with statutory purposes and upon tender of sum for unexpired right; lease of federal lands: restrictive covenants, offer to prior owner or leaseholder

The owner of improved residential property or of agricultural property on the date of its acquisition by the Secretary under this subchapter may, as a condition of such acquisition, retain for himself and his or her heirs and assigns a right of use and occupancy for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of his or her spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partly donated to the United States, the Secretary shall pay to the owner the fair market value of the property on the date of acquisition minus the fair market value on that date of the right retained by the owner. A right retained pursuant to this section shall be subject to termination by the Secretary upon his or her determination that it is being exercised in a manner inconsistent with the purposes of this subchapter, and it shall terminate by operation of law upon the Secretary's notifying the holder of the right of such determination and tendering to him or her an amount equal to the fair market value of that portion of the right which remains unexpired. Where appropriate in the discretion of the Secretary, he or she may lease federally owned land (or any interest therein) which has been acquired by the Secretary under this subchapter, and which was agricultural land prior to its acquisition. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this subchapter. Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land or who was a leaseholder thereon immediately before its acquisition by the United States.

(k) Improved and agricultural property defined

The term "improved property", as used in subsection (j) of this section, means a detached, non-commercial residential dwelling, the construction of which was begun before June 1, 1971, or, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated. The term "agricultural property" as used in this subchapter means lands which are in regular use for agricultural, ranching, or dairying purposes as of January 1, 1978, together with residential and other structures related to the above uses of the property as such structures exist on said date.

[*See main edition for text of* (l) *and* (m)]

(n) Management of State donated lands

The Secretary shall accept and shall manage in accordance with this subchapter, any land and improvements adjacent to the recreation area which are donated by the State of California or its political subdivisions. The boundaries of the recreation area shall be changed to include such donated lands.

(o) Payment deferral; scheduling; interest rate

In acquiring those lands authorized by the Ninety-fifth Congress for the purposes of this subchapter, the Secretary may, when agreed upon by the landowner involved, defer payment or schedule payments over a period of ten years and pay interest on the unpaid balance at a rate not exceeding that paid by the Treasury of the United States for borrowing purposes.

(As amended Pub. L. 95-625, title III, § 317(b)-(e), Nov. 10, 1978, 92 Stat. 3485.)

AMENDMENTS

1978—Subsec. (i). Pub. L. 95-625, § 317(b), in revising the text, substituted provision prohibiting new construction and development in the recreation area on lands under the administrative jurisdiction of a department other than that of the Secretary but authorized reconstruction or demolition of improvements upon the nontransferred lands of such agency after consultations with the Secretary and upon notice and hearing for prior provision limited to new construction and development on property under administrative jurisdiction of the Department of the Army required to accommodate facilities being relocated from property being transferred to administrative jurisdiction of the Secretary or directly related to the essential missions of the Sixth United States Army.

Subsec. (j). Pub. L. 95-625, § 317(c), substituted provision making the subsection applicable to improved residential property and agricultural property for prior provision for application to improved property of a noncommercial residential nature and authorized lease of Federally-owned lands, subject to restrictive covenants, with first offer to prior owner or leaseholder.

Subsec. (k). Pub. L. 95–625, § 317(d), defined "improved property" to include residential dwelling, the construction of which was begun, in the case of areas added by action of the Ninety-fifth Congress, October 1, 1978, and included definition of "agricultural property".

Subsecs. (n), (o). Pub. L. 95–625, § 317(e), added subsecs. (n) and (o).

§ 460bb–3. Administration

[*See main edition for text of* (a) *to* (d)]

(e) Fees or admission charges

No fees or admission charges shall be levied for admission of the general public to the recreation area except to portions under lease or permit for a particular and limited purpose authorized by the Secretary. The Secretary may authorize reasonable charges for public transportation and, for a period not exceeding five years from November 10, 1978, for admission to the sailing vessel Balclutha.

(f) Certain rental proceeds; crediting; management contract

Notwithstanding any other provisions of law, in the administration of those parcels of property known as Haslett Warehouse, Cliff House Properties and Louis' Restaurant, the Secretary shall credit any proceeds from the rental of space in the aforementioned properties to the appropriation, if any, bearing the cost of their administration, maintenance, repair and related expenses and also for the maintenance, repair and related expenses of the vessels and the adjacent piers comprising the National Maritime Museum, for major renovation and park rehabilitation of those buildings included in the Fort Mason Foundation Cooperative Agreement, and for a coordinated public and private access system to and within the recreation area and other units of the national park system in Marin and San Francisco Counties: *Provided*, That surplus funds, if any, will be deposited into the Treasury of the United States: *Provided further*, That notwithstanding any other provision of law, in the administration of said parcels the Secretary may, if he deems appropriate, enter into a contract for the management of said parcels of property with such terms and conditions as will protect the Government's interest, with excess funds being used as set forth above.

(As amended Pub. L. 95–625, title III, § 317(f), Nov. 10, 1978, 92 Stat. 3486.)

AMENDMENTS

1978—Subsecs. (e), (f). Pub. L. 95–625 added subsecs. (e) and (f).

§ 460bb–4. Golden Gate National Recreation Area Advisory Commission

[*See main edition for text of* (a)]

(b) Membership; appointment; term of office

The Commission shall be composed of seventeen members appointed by the Secretary for terms of three years each.

[*See main edition for text of* (c) *to* (g)]

(As amended Pub. L. 95–625, title III, § 317(g), Nov. 10, 1978, 92 Stat. 3486.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95–625 increased Commission membership to seventeen from fifteen.

SUBCHAPTER LXXXIX—BIG SOUTH FORK NATIONAL RIVER AND RECREATION AREA

§ 460ee. Establishment of National Area

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under part I of the Federal Power Act, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER XC—CUYAHOGA VALLEY NATIONAL RECREATION AREA

§ 460ff–1. Acquisition of land

(a) Composition and boundaries; boundary revisions; certain specific property

The recreational area shall comprise the lands and waters generally depicted on the map entitled "Boundary Map, Cuyahoga Valley National Recreation Area, Ohio", numbered 90,001–A, and dated May 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the main public library of Akron, Ohio, and Cleveland, Ohio. After advising the Committees on Interior and Insular Affairs of the United States Congress, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register: *Provided*, That with respect to the property known as the Hydraulic Brick Company located in Independence, Ohio, the Secretary shall have the first right of refusal to purchase such property for a purchase price not exceeding the fair market value of such property on the date it is offered for sale. When acquired such property shall be administered as part of the recreation area, subject to the laws and regulations applicable thereto.

[*See main edition for text of* (b) *to* (d)]

(e) Improved property defined; determination by Secretary

For the purposes of this subchapter, the term "improved property" means: (i) a detached single family dwelling, the construction of which was begun before January 1, 1975 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, or (ii) property developed for agricultural uses, to-

gether with any structures accessory thereto which were so used on or before January 1, 1975. In determining when and to what extent a property is to be considered an "improved property", the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1975, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date. In applying this subsection with respect to lands and interests therein added to the recreation area by action of the Ninety-fifth Congress, the date "January 1, 1978," shall be substituted for the date "January 1, 1975," in each place it appears.

[*See main edition for text of (f) and (g)*]

(As amended Pub. L. 95-625, title III, § 315(a), (d), (f), Nov. 10, 1978, 92 Stat. 3483.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625, § 315(a), (f), substituted reference to Boundary Map "numbered 90,001-A, and dated May 1978" for "numbered 90,000-A, and dated September 1976" and added provision for land acquisition of the Hydraulic Brick Company and administration of the property as part of the recreation area.

Subsec. (e). Pub. L. 95-625, § 315(d), provided for substitution of date "January 1, 1978" for "January 1, 1975" wherever appearing in application of the subsec. to lands and interests therein added to the recreation area by action of the Ninety-fifth Congress.

§ 460ff-3. Administration

[*See main edition for text of (a) to (e)*]

(f) Zoning laws and ordinances; consultation and assistance with local government or intergovernmental organization in establishment; objectives; technical aid

The Secretary may, on his own initiative, or at the request of any local government (or intergovernmental organization) having jurisdiction over land located within or adjacent to the recreation area, assist and consult with the appropriate officers and employees of such local government (or intergovernmental organization) in establishing zoning laws or ordinances which will assist in achieving the purposes of this subchapter. In providing assistance pursuant to this subsection, the Secretary shall endeavor to obtain provisions in such zoning laws or ordinances which—

[*See main edition for text of (1) to (3)*]

Assistance under this subsection may include payments for technical aid.

(As amended Pub. L. 95-625, title III, § 315(e), Nov. 10, 1978, 92 Stat. 3483.)

AMENDMENTS

1978—Subsec. (f). Pub. L. 95-625 inserted in introductory text "(or intergovernmental organization)" following "local government" in two instances, and last sentence providing that assistance may include payments for technical aid.

§ 460ff-5. Authorization of appropriations; limitations; final development; master plan; consultations with State; transmission to Congressional committees; contents

(a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this subchapter, but not more than $70,100,000 for the acquisition of lands and interests in lands.

(b) For the development of the recreation area, including improvements of properties acquired for purposes of this subchapter, there is authorized to be appropriated not more than $13,000,000. Within one year from the date of establishment of the recreation area pursuant to this subchapter, the Secretary shall, after consulting with the Governor of the State of Ohio, develop and transmit to the Committees on Interior and Insular Affairs of the United States Congress a final master plan for the development of the recreation area consistent with the objectives of this subchapter, indicating:

[*See main edition for text of (1) to (3)*]

(As amended Pub. L. 95-625, title III, § 315(b), (c), Nov. 10, 1978, 92 Stat. 3483.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625, § 315(b), increased appropriations authorization to $70,100,000 from $41,100,000.

Subsec. (b). Pub. L. 95-625, § 315(c), substituted "For the development of the recreation area, including improvements of properties acquired for purposes of this subchapter, there is authorized to be appropriated not more than $13,000,000." for "For the development of essential public facilities there are authorized to be appropriated not more than $500,000."

SUBCHAPTER XCI—HELLS CANYON NATIONAL RECREATION AREA

§ 460gg. Establishment; statement of purposes; composition; publication of boundary description in Federal Register

[*See main edition for text of (a)*]

(b) The Hells Canyon National Recreation Area (hereinafter referred to as the "recreation area"), which includes the Hells Canyon Wilderness (hereinafter referred to as the "wilderness"), the components of the Wild and Scenic Rivers System designated in section 3 of this Act, and the wilderness study areas designated in section 460gg-5(d) of this title, shall comprise the lands and waters generally depicted on the map entitled "Hells Canyon National Recreation Area" dated May 1978, which shall be on file and available for public inspection in the office of the Chief, Forest Service, United States Department of Agriculture. The Secretary of Agriculture (hereinafter referred to as "the Secretary"), shall, as soon as practicable, but no later than eighteen months after December 31, 1975, publish a detailed boundary description of the recreation area, the wilderness study areas designated in section 460gg-5(d) of this title, and the wilderness established in section 460gg-1 of this title in the Federal Register.

(As amended Pub. L. 95-625, title VI, § 607, Nov. 10, 1978, 92 Stat. 3520.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-625 substituted "May 1978" for "September 1975" to clarify that the boundary between Saulsberry and Freezeout Saddles is the hydrologic divide.

§ 460gg-2. Federal power and water resources projects; license and other restrictions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under part I of the Federal Power Act, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

SUBCHAPTER XCIII—CHATTAHOOCHEE RIVER NATIONAL RECREATION AREA [NEW]

§ 460ii. Statement of purposes; establishment; composition and boundaries; boundary revisions; publication in Federal Register; total area

The Congress finds the natural, scenic, recreation, historic, and other values of a forty-eight-mile segment of the Chattahoochee River and certain adjoining lands in the State of Georgia from Buford Dam downstream to Peachtree Creek are of special national significance, and that such values should be preserved and protected from developments and uses which would substantially impair or destroy them. In order to assure such preservation and protection for public benefit and enjoyment, there is hereby established the Chattahoochee River National Recreation Area (hereinafter referred to as the "recreation area"). The recreation area shall consist of the river and its bed together with the lands, waters, and interests therein within the boundary generally depicted on the map entitled "Chattahoochee River National Recreation Area", numbered CHAT-20,000, and dated July 1976, which shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior. Following reasonable notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary of the Interior (hereinafter referred to as the "Secretary") may, by publication of a revised map or other boundary description in the Federal Register, (1) make minor revisions in the boundary of the recreation area, and (2) revise the boundary to facilitate access to the recreation area, or to delete lands which would be of little or no benefit to the recreation area due to the existence of valuable improvements completely constructed prior to August 15, 1978. The total area, exclusive of the river and its bed, within the recreation area may not exceed six thousand three hundred acres.

(Pub. L. 95-344, title I, § 101, Aug. 15, 1978, 92 Stat. 474.)

§ 460ii-1. Acquisition of property

(a) Manner of acquisition of lands, etc., within area

Within the recreation area the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange. Property owned by the State of Georgia or any political subdivision thereof may be acquired only by donation.

(b) Manner of acquisition of lands partly within and partly without area; disposal of unutilized lands

When a tract of land lies partly within and partly without the boundaries of the recreation area, the Secretary may acquire the entire tract by any of the above methods in order to avoid the payment of severance costs. Land so acquired outside of the boundaries of the recreation area may be exchanged by the Secretary for non-Federal land within such boundaries, and any portion of the land not utilized for such exchanges may be disposed of in accordance with the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

(c) Acquisition of improved property used for noncommercial residential purposes; retention by owners of right of use and occupancy for residential purposes; terms; payment of fair market value

Except for property which the Secretary determines to be necessary for the purposes of administration, development, access, or public use, an owner of improved property which is used solely for noncommercial residential purposes on the date of its acquisition by the Secretary may retain, as a condition of such acquisition, a right of use and occupancy of the property for such residential purposes. The right retained may be for a definite term which shall not exceed twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of the spouse, whichever occurs later. The owner shall elect the term to be retained. The Secretary shall pay the owner the fair market value of the property on the date of such acquisition, less the fair market value of the term retained by the owner.

(d) Terms and conditions respecting rights of use and occupancy retained; termination of right of use and occupancy

Any right of use and occupancy retained pursuant to this section may, during its existence, be conveyed or transferred, but all rights of use and occupancy shall be subject to such terms and conditions as the Secretary deems appropriate to assure the use of the property in accordance with the purposes of this subchapter and chapter 43 of this title. Upon his determination that the property, or any portion thereof, has ceased to be so used in accordance with such terms and conditions, the Secretary may terminate the right of use and occupancy by tendering to the holder of such right an amount equal to the fair market value, as of the date of the tender, of that portion of the right which remains unexpired on the date of termination.

(e) Improved property defined

As used in this section, the term "improved property" means a detached, year-round noncommercial residential dwelling, the construction of which was begun before January 1, 1975, together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(Pub. L. 95–344, title I, § 102, Aug. 15, 1978, 92 Stat. 474.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (b), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that act relating to disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables.

§ 460ii–2. Administration, protection, and development requirements

(a) Applicability of statutory provisions; consideration of Federal, State, and local plans

The Secretary shall administer, protect, and develop the recreation area in accordance with sections 1 and 2 to 4 of this title, and in accordance with any other statutory authorities available to him for the conservation and management of historic and natural resources, including fish and wildlife, to the extent he finds such authority will further the purposes of this subchapter and chapter 43 of this title. In developing and administering the recreation area, the Secretary shall take into consideration applicable Federal, State, and local recreation plans and resource use and development plans, including, but not limited to, the Atlanta Regional Commission Chattahoochee Corridor Study, dated July 1972.

(b) Cooperative agreements with State or political subdivisions

The Secretary is authorized and encouraged to enter into cooperative agreements with the State or its political subdivisions whereby he may assist in the planning for and interpretation of non-Federal publicly owned lands within or adjacent or related to the recreation area to assure that such lands are used in a manner consistent with the findings and purposes of this subchapter and chapter 43 of this title.

(c) Consultation with Secretary of Army

In planning for the development and public use of the recreation area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource development or flood control projects and that of the recreation area are complementary.

(d) Establishment, regulations governing, etc., of fishing zones

In administering the recreation area, the Secretary may permit fishing in waters under his jurisdiction in accordance with applicable State and Federal laws and regulations. The Secretary, after consultation with the appropriate State agency responsible for fishing activities, may designate zones where, and establish periods when, fishing shall be permitted and issue such regulations as he may determine to be necessary to carry out the provisions of this subsection. Except in emergencies, such regulations shall be put into effect only after consultation with the appropriate State agency.

(Pub. L. 95–344, title I, § 103, Aug. 15, 1978, 92 Stat. 475.)

§ 460ii–3. Federal supervision of water resources projects

(a) Limitations on licensing and assistance authorities; criteria for upgrading, improving, etc., supply and quality enhancement programs

The Federal Energy Regulatory Commission shall not license the construction of any dam, water conduit, reservoir, powerhouse, transmission line, or other project works under the Federal Power Act (16 U.S.C. 791a et seq.), on or directly affecting the recreation area, and no department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such area is established, except where such project is determined by the State of Georgia to be necessary for water supply or water quality enhancement purposes and authorized by the United States Congress. Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments upstream or downstream from the recreation area or on any stream tributary thereto which will not invade the recreation area or unreasonably diminish the scenic, recreational, and fish and wildlife values present therein on August 15, 1978. Nothing contained in this subsection shall preclude the upgrading, improvement, expansion or development of facilities or public works for water supply or water quality enhancement purposes if such action would not have a material adverse effect on the values for which the recreation area is established.

(b) Limitations on recommending authorizations and requesting appropriations; applicability of local considerations and criteria

No department or agency of the United States shall recommend authorization of any water resources project that would have a direct and adverse effect on the values for which such area is established, as determined by the Secretary, nor shall such department or agency request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without at least sixty days in advance, (1) advising the Secretary in writing of its intention to do so and (2) reporting to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate the nature of the project involved and the manner in which such project would conflict with the purposes of this sub-

chapter and chapter 43 of this title or would affect the recreation area and the values to be protected by it under this subchapter and chapter 43 of this title. It is not the intention of Congress by this subchapter and chapter 43 of this title to require the manipulation or reduction of lake water levels in Lake Sidney Lanier. Nothing in this subchapter and chapter 43 of this title shall be construed in any way to restrict, prohibit, or affect any recommendation of the Metropolitan Atlanta Water Resources Study as authorized by the Public Works Committee of the United States Senate on March 2, 1972.

(c) Expeditious acquisition of lands and interests in lands necessary for establishment, etc., of area

The Secretary is directed to proceed as expeditiously as possible to acquire the lands and interests in lands necessary to achieve the purposes of this subchapter and chapter 43 of this title.

(Pub. L. 95-344, title I, § 104, Aug. 15, 1978, 92 Stat. 476.)

REFERENCES IN TEXT

The Federal Power Act (16 U.S.C. 791a et seq.), referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

§ 460ii-4. Funding and reporting requirements

(a) Amounts authorized for expending for acquisition of lands and interests in lands

From the appropriations authorized for fiscal year 1978 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended [16 U.S.C. 460*l*-4 et seq.], not more than $72,900,000 may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this subchapter and chapter 43 of this title.

(b) Authorization of appropriations for development of essential public services

Effective on October 1, 1978, there are authorized to be appropriated not to exceed $500,000 for the development of essential public facilities.

(c) General management plan for use and development of area; consulting and reporting requirements; contents

Within three years from August 15, 1978, the Secretary shall, after consulting with the Governor of the State of Georgia, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the use and development of the recreation area consistent with the findings and purposes of this subchapter and chapter 43 of this title, indicating:

(1) lands and interests in lands adjacent or related to the recreation area which are deemed necessary or desirable for the purposes of resource protection, scenic integrity, or management and administration of the area in furtherance of the purposes of this subchapter and chapter 43 of this title, the estimated cost of acquisition, and the recommended public acquisition agency;

(2) the number of visitors and types of public use within the recreation area that can be accommodated in accordance with the full protection of its resources; and

(3) the facilities deemed necessary to accommodate and provide access for such visitors and uses, including their location and estimated cost.

(Pub. L. 95-344, title I, § 105, Aug. 15, 1978, 92 Stat. 476.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act (78 Stat. 897), referred to in subsec. (a) probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified principally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of this title and Tables volume.

SUBCHAPTER XCIV—ARAPAHO NATIONAL RECREATION AREA [NEW]

§ 460jj. Arapaho National Recreation Area

(a) Establishment

An area of land comprising approximately thirty-six thousand two hundred thirty-five acres located in Grand County, Colorado, within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project (as generally depicted as the "Arapaho National Recreation Area" on a map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978) is established as the Arapaho National Recreation Area.

(b) Administration

The Secretary shall administer the Arapaho National Recreation Area, in accordance with the laws and regulations applicable to the national forests, in such a manner as will best provide for—

(1) public recreation and enjoyment;

(2) the conservation and development of the scenic, natural, historic, and pastoral values of the area;

(3) the management, utilization, and disposal of natural resources such as timber, grazing, and mineral resources so that their utilization will not substantially impair the purposes for which the recreation area is established; and

(4) the management of water quality in the recreation area consistent with the development of needed water supply and waste-water systems, including the control of aquatic vegetation in the streams, lakes, and reservoirs within the recreation area.

(c) Management plan

The Secretary shall develop an overall management plan for the Arapaho National Recreation Area. This plan shall be developed in consultation with State and local political subdivisions and other interested persons.

(Pub. L. 95-450, § 4, Oct. 11, 1978, 92 Stat. 1095.)

SHORT TITLE

Section 1 of Pub. L. 95-450 provided that: "This Act [enacting this subchapter and enacting notes set out under this section and section 1132 of this title] may be cited as the 'Indian Peaks Wilderness Area, the Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act'."

LEGISLATIVE FINDINGS; PURPOSES

Section 2 of Pub. L. 95-450 provided that: "The Congress finds that it is in the national interest—

"(1) to include the land within the Arapaho and the Roosevelt National Forests known as the Indian Peaks Area in the National Wilderness Preservation System so as to protect the area's enduring scenic and historic wilderness character and its unique wildlife and to preserve the area's scientific, educational, recreational, and inspirational resources and challenges; and

"(2) to create the Arapaho National Recreation Area within the Arapaho and the Roosevelt National Forests and the Colorado Big Thompson project so as to preserve and protect the natural, scenic, historic, pastoral, and wildlife resources of the area and to enhance the recreational opportunities provided."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460jj-1, 460jj-7 of this title.

§ 460jj-1. Land acquisition

(a) Determination of necessity; scenic easement

(1) The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, exchange, or bequest, any lands or lesser interests therein, including mineral interests and scenic easements, which the Secretary determines are needed to establish and manage the Arapaho National Recreation Area. In determining what private property is needed to establish and manage the Arapaho National Recreation Area the Secretary shall utilize the approved county zoning plan to identify those properties whose use or intended use is not in conformance with the overall intent of this subchapter.

(2) As used in this section, the term "scenic easement" means the right to control the use of land in order to carry out this subchapter, but shall not preclude the continuation of any use that is compatible with the overall management plan for the Arapaho National Recreation Area developed pursuant to subsection (c) of section 460jj of this title.

(b) Privately owned land

In exercising the authority conferred by this section to acquire lands, the Secretary shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Arapaho National Recreation Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property. Purchases made under this authority shall be made on a willing buyer, willing seller basis.

(c) Exchange of property; cash equalization

In exercising the authority conferred by this section to acquire property by exchange, the Secretary may accept title to any non-Federal land, or interests therein, located within the Arapaho National Recreation Area and the Secretary may convey in exchange therefor any federally owned lands or interests inlands within the State of Colorado which are classified by the Secretary as suitable for exchange and which are under the Secretary's administrative jurisdiction. The values of any lands or interests in lands so exchanged shall be approximately equal, or if they are not approximately equal, they shall be equalized by the payment of cash to the grantor or to the Secretary so long as payment does not exceed 25 per centum of the total value of the land or interest in land. In utilizing cash equalization in exchanges the Secretary shall try to reduce the amount of the payment of money to as small an amount as possible. In the exercise of his exchange authority, the Secretary may utilize authorities and procedures available to him in making exchanges of national forest lands.

(d) State land

Any land or interest in land owned by the State of Colorado or any of its political subdivisions may be acquired only by donation or exchange.

(e) Transfer of Federal land

Notwithstanding any other provision of law, any Federal lands or interests in lands located within the Arapaho National Recreation Area shall be transferred without consideration to the administrative jurisdiction of the Secretary for use by the Secretary in carrying out this subchapter. Lands within the Arapaho National Recreation Area acquired by the Secretary or transferred to the Secretary's administrative jurisdiction shall become part of that recreation area and of the national forest within or adjacent to which they are located: *Provided*, That the operation and facilities of the Colorado Big Thompson project shall remain under the jurisdiction of the United States Bureau of Reclamation.

(Pub. L. 95-450, § 5, Oct. 11, 1978, 92 Stat. 1096.)

REFERENCES IN TEXT

This subchapter, referred to in subsecs. (a) and (e), read in the original "this Act", meaning Pub. L. 95-450, Oct. 11, 1978, 92 Stat. 1095, which enacted this subchapter and enacted provisions set out as notes under sections 460jj and 1132 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460jj of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460jj-7 of this title.

§ 460jj-2. Hunting and fishing

The Secretary shall permit hunting and fishing on lands and waters under the Secretary's jurisdiction within the boundaries of the Arapaho National Recreation Area in accordance with the laws of the United States and the State of Colorado, except that the Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety, area general administration, or public use and enjoyment.

Except in emergencies, any regulations made by the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department.

(Pub. L. 95-450, § 6, Oct. 11, 1978, 92 Stat. 1097.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460jj-7 of this title.

§ 460jj-3. Permits for facilities and services

The Secretary shall cooperate with other Federal agencies, with State and local public agencies, and with private individuals and organizations in the issuance of permits for facilities and services in the Arapaho National Recreation Area and the development and operation of those facilities and services.

(Pub. L. 95-450, § 7, Oct. 11, 1978, 92 Stat. 1097.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460jj-7 of this title.

§ 460jj-4. Application of State water laws

The jurisdiction of the State of Colorado and the United States over waters of any stream included in the Arapaho National Recreation Area shall be determined by established principles of law. Nothing in this subchapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(Pub. L. 95-450, § 8, Oct. 11, 1978, 92 Stat. 1097.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this Act", meaning Pub. L. 95-450, Oct. 11, 1978, 92 Stat. 1095, which enacted this subchapter and enacted provisions set out as notes under sections 460jj and 1132 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460jj of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460jj-7 of this title.

§ 460jj-5. Filing of maps

As soon as practicable after October 11, 1978, the Secretary shall file a map and legal description of the Indian Peaks Wilderness Area and the Arapaho National Recreation Area with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and such description shall have the same force and effect as if included in this subchapter, except that correction of any clerical or typographical errors in such map and description may be made. Such map and the map entitled "Indian Peaks Wilderness Area and Arapaho National Recreation Area", dated July 1978, shall be on file and made available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture.

(Pub. L. 95-450, § 9, Oct. 11, 1978, 92 Stat. 1097.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this Act", meaning Pub. L. 95-450, Oct. 11, 1978, 92 Stat. 1095, which enacted this subchapter and enacted provisions set out as notes under sections 460jj and 1132 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460jj of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460jj-7 of this title.

§ 460jj-6. State civil and criminal jurisdiction

Nothing in this subchapter shall diminish, enlarge, or modify any right of the State of Colorado, or any political subdivision thereof, to exercise civil and criminal jurisdiction within the Indian Peaks Wilderness Area or the Arapaho National Recreation Area or of rights to tax persons, franchises, or property, including mineral or other interests, in or on lands or waters within those areas.

(Pub. L. 95-450, § 10, Oct. 11, 1978, 92 Stat. 1098.)

REFERENCES IN TEXT

This subchapter, referred to in text, read in the original "this Act", meaning Pub. L. 95-450, Oct. 11, 1978, 92 Stat. 1095, which enacted this subchapter and enacted provisions set out as notes under sections 460jj and 1132 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460jj of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 460jj-7 of this title.

§ 460jj-7. Authorization of appropriations

Effective October 1, 1979, there are authorized to be appropriated to carry out sections 1 through 10 of this Act $5,000,000 for the acquisition of lands and interests in lands and $5,000,000 for water quality and recreation development. Moneys appropriated from the Land and Water Conservation Fund shall be available for the acquisition of lands and interests therein within the Arapaho National Recreation Area.

(Pub. L. 95-450, § 11, Oct. 11, 1978, 92 Stat. 1098.)

REFERENCES IN TEXT

Sections 1 through 10 of this act, referred to in text, means sections 1 through 10 of Pub. L. 95-450, Oct. 11, 1978, 92 Stat. 1095 which enacted sections 460jj to 460jj-6 of this title and enacted provisions set out as notes under sections 460jj and 1132 of this title.

The Land and Water Conservation Fund, referred to in text, was established by section 460*l*-5 of this title.

SUBCHAPTER XCV—SANTA MONICA MOUNTAINS NATIONAL RECREATION AREA [NEW]

§ 460kk. Recreation area

(a) Congressional findings

The Congress finds that—

(1) there are significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits provided by the

Santa Monica Mountains and adjacent coastline area;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area; and

(3) the State of California and its local units of government have authority to prevent or minimize adverse uses of the Santa Monica Mountains and adjacent coastline area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority.

(b) Establishment; management

There is hereby established the Santa Monica Mountains National Recreation Area (hereinafter referred to as the "recreation area"). The Secretary shall manage the recreation area in a manner which will preserve and enhance its scenic, natural, and historical setting and its public health value as an airshed for the Southern California metropolitan area while providing for the recreational and educational need of the visiting public.

(c) Description; boundary revisions: notice to Congressional committees, publication in Federal Register; acquisition of property: manner, transfer from Federal agency to administrative jurisdiction of Secretary, Nike Site transfer to Secretary

(1) The recreation area shall consist of the lands and waters and interests generally depicted as the recreation area on the map entitled "Boundary Map, Santa Monica Mountains National Recreation Area, California, and Santa Monica Mountains Zone", numbered SMM-NRA 80,000, and dated May 1978, which shall be on file and available for inspection in the offices of the National Park Service, Department of the Interior, Washington, District of Columbia, and in the offices of the General Services Administration in the Federal Office Building in West Los Angeles, California, and in the main public library in Ventura, California. After advising the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, in writing, the Secretary may make minor revisions of the boundaries of the recreation area when necessary by publication of a revised drawing or other boundary description in the Federal Register.

(2) Not later than ninety days after November 10, 1978, the Secretary, after consultation with the Governor of the State of California, the California Coastal Commission, and the Santa Monica Mountains Comprehensive Planning Commission, shall commence acquisition of lands, improvements, waters, or interests therein within the recreation area. Such acquisition may be by donation, purchase with donated or appropriated funds, transfer from any Federal agency, exchange, or otherwise. Any lands or interests therein owned by the State of California or any political subdivision thereof (including any park district or other public entity) may be acquired only by donation, except that such lands acquired after November 10, 1978, by the State of California or its political subdivisions may be acquired by purchase or exchange if the Secretary determines that the lands were acquired for purposes which further the national interest in protecting the area and that the purchase price or value on exchange does not exceed fair market value on the date that the State acquired the land or interest: *Provided, however,* That the value of any lands acquired by the Secretary under the exception in this sentence shall be deducted from the amount of moneys available for grants to the State under subsection (n) of this section. Notwithstanding any other provision of law, any Federal property located within the boundaries of the recreation area shall, with the concurrence of the head of the agency having custody thereof, be transferred without cost, to the administrative jurisdiction of the Secretary for the purposes of the recreation area.

(3) The Administrator of the General Services Administration is hereby authorized and directed to transfer the site generally known as Nike Site 78 to the Secretary for inclusion in the recreation area: *Provided,* That the county of Los Angeles shall be permitted to continue to use without charge the facilities together with sufficient land as in the determination of the Secretary shall be necessary to continue to maintain and operate a fire suppression and training facility and shall be excused from payment for any use of the land and facilities on the site prior to November 10, 1978. At such time as the county of Los Angeles, California, relinquishes control of such facilities and adjacent land or ceases the operation of the fire suppression and training facility, the land and facilities shall be managed by the Secretary as a part of the recreation area.

(d) Identification and revision of areas: public ownership for critical purposes; land and area plan: submission to Congressional committees

(1) Within six months after November 10, 1978, the Secretary shall identify the lands, waters, and interests within the recreation area which must be acquired and held in public ownership for the following critical purposes: preservation of beaches and coastal uplands; protection of undeveloped inland stream drainage basins; connection of existing State and local government parks and other publicly owned lands to enhance their potential for public recreation use; protection of existing park roads and scenic corridors, including such right-of-way as is necessary for the protection of the Mulholland Scenic Parkway Corridor; protection of the public health and welfare; and development and interpretation of historic sites and recreation areas in connection therewith, to include, but not be limited to, parks, picnic areas, scenic overlooks, hiking trails, bicycle trails, and equestrian trails. The Secretary may from time to time revise the identification of such areas, and any such revisions shall become effective in the same manner as herein provided for revisions in the boundaries of the recreation area.

(2) By January 1, 1980, the Secretary shall submit, in writing, to the committees referred to in subsection (c) of this section and to the Committees on Appropriations of the United

States Congress a detailed plan which shall indicate—

(A) the lands and areas identified in paragraph (1),

(B) the lands which he has previously acquired by purchase, donation, exchange, or transfer for the purpose of this recreation area,

(C) the annual acquisition program (including the level of funding) recommended for the ensuing five fiscal years, and

(D) the final boundary map for the recreation area.

(e) Improved property and scenic easement acquisitions

With respect to improved properties, as defined in this section, fee title shall not be acquired unless the Secretary finds that such lands are being used, or are threatened with uses, which are detrimental to the purposes of the recreation area, or unless each acquisition is necessary to fulfill the purposes of this section. The Secretary may acquire scenic easements to such improved property or such other interests as, in his judgment are necessary for the purposes of the recreation area.

(f) Improved property defined

For the purposes of this section, the term "improved property" means—

(1) a detached single-family dwelling, the construction of which was begun before January 1, 1976 (hereafter referred to as "dwelling"), together with so much of the land on which the dwelling is situated as is in the same ownership as the dwelling and as the Secretary designates to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures necessary to the dwelling which are situated on the land so designated, and

(2) property developed for agricultural uses, together with any structures accessory thereto as were used for agricultural purposes on or before January 1, 1978.

In determining when and to what extent a property is to be treated as "improved property" for purposes of this section, the Secretary shall take into consideration the manner of use of such buildings and lands prior to January 1, 1978, and shall designate such lands as are reasonably necessary for the continued enjoyment of the property in the same manner and to the same extent as existed prior to such date.

(g) Owner's reservation of right of use and occupancy for fixed term of years or life; election of term; fair market value; termination; notification

The owner of an improved property, as defined in this section, on the date of its acquisition, as a condition of such acquisition, may retain for herself or himself, her or his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or agriculture purposes, as the case may be, for a definite term of not more than twenty-five years, or, in lieu thereof, for a term ending at the death of the owner or the death of her or his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that it is being exercised in a manner inconsistent with the purposes of this section, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired.

(h) Hardship sale offers

In exercising the authority to acquire property under this section, the Secretary shall give prompt and careful consideration to any offer made by an individual owning property within the recreation area to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(i) Administration

The Secretary shall administer the recreation area in accordance with this Act and provisions of laws generally applicable to units of the National Park System, including sections 1 and 2 to 4 of this title. In the administration of the recreation area, the Secretary may utilize such statutory authority available for the conservation and management of wildlife and natural resources as appropriate to carry out the purpose of this section. The fragile resource areas of the recreation area shall be administered on a low-intensity basis, as determined by the Secretary.

(j) Cooperative agreements for rescue, fire prevention and firefighting, and law enforcement services.

The Secretary may enter into cooperative agreements with the State of California, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(k) Donations

Notwithstanding any other provision of law, the Secretary is authorized to accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of land acquisition and providing services and facilities which the Secretary deems consistent with the purposes of this section.

(*l*) Report of Advisory Commission to Secretary

By January 1, 1981, the Santa Monica Mountains National Recreation Area Advisory Commission, established by this section, shall submit a report to the Secretary which shall—

(1) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area,

(2) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section, and

(3) recommend any conditions, joint management agreements, or other land use mechanisms to be contingent on any transfer of land.

(m) Report of Secretary to Congressional committees

The Secretary, after giving careful consideration to the recommendations set forth by the Advisory Commission, shall, by January 1, 1982, submit a report to the Committees referred to in subsection (c) of this section which shall incorporate the recommendations of the Advisory Commission as well as set forth the Secretary's recommendations. Such report shall—

(1) assess the benefits and costs of continued management as a unit of the National Park System,

(2) assess the capability and willingness of the State of California and the local units of government to manage and operate the recreation area, and

(3) recommend any changes in ownership, management, and operation which would better accomplish the purposes of this section.

(n) Comprehensive plan; contents; approval considerations; environmental consultations; grants and funds; assurance and grant requirements; plan changes: liability for reimbursement of funds, approval by Secretary

(1) The Secretary shall request the Santa Monica Mountains Comprehensive Planning Commission to submit a comprehensive plan, prepared in accord with this section and title 7.75 of the California Government Code (commencing with section 67450), for the Santa Monica Mountains Zone generally depicted on the map referred to in subsection (c) of this section for approval.

(2) The comprehensive plan shall include, in addition to the requirements of California State law—

(A) an identification and designation of public and private uses which are compatible with and which would not significantly impair the significant scenic, recreational, educational, scientific, natural, archeological, and public health benefits present in the zone and which would not have an adverse impact on the recreation area or on the air quality of the south coast air basin;

(B) a specific minimum land acquisition program which shall include, but not be limited to, fee and less than fee acquisition of strategic and critical sites not to be acquired by the Federal Government for public recreational and other related uses; and a program for the complementary use of State and local authority to regulate the use of lands and waters within the Santa Monica Mountains Zone to the fullest extent practicable consistent with the purposes of this section; and

(C) a recreation transportation system which may include but need not be limited to existing public transit.

(3) No plan submitted to the Secretary under this section shall be approved unless the Secretary finds the plan consistent with paragraph (2) and finds that—

(A) the planning commission has afforded adequate opportunity, including public hearings, for public involvement in the preparation and review of the plan, and public comments were received and considered in the plan or revision as presented to him;

(B) the State and local units of government identified in the plan as responsible for implementing its provisions have the necessary authority to implement the plan and such State and local units of government have indicated their intention to use such authority to implement the plan;

(C) the plan, if implemented, would preserve significant natural, historical, and archeological benefits and, consistent with such benefits, provide increased recreational opportunities for persons residing in the greater Los Angeles-southern California metropolitan area; and

(D) implementation of the plan would not have a serious adverse impact on the air quality or public health of the greater Los Angeles region.

Before making his findings on the air quality and public health impacts of the plan, the Secretary shall consult with the Administrator of the Environmental Protection Agency.

(4) Following approval of the plan with respect to the Santa Monica Mountains Zone, upon receipt of adequate assurances that all aspects of that jurisdiction's implementation responsibilities will be adopted and put into effect, the Secretary shall—

(A) provide grants to the State and through the State to local governmental bodies for acquisition of lands, waters, and interests therein identified in paragraph (2)(B), and for development of essential public facilities, except that such grants shall be made only for the acquisition of lands, waters, and interests therein, and related essential public facilities, for park, recreation, and conservation purposes; and

(B) provide, subject to agreements that in the opinion of the Secretary will assure additional preservation of the lands and waters of the zone, such funds as may be necessary to retire bonded indebtedness for water and sewer and other utilities already incurred by property owners which in the opinion of the Secretary would if left outstanding contribute to further development of the zone in a manner inconsistent with the approved plan developed by the planning commission.

No grant for acquisition of land may be made under subparagraph (A) unless the Secretary receives satisfactory assurances that such lands acquired under subparagraph (A) shall not be converted to other than park, recreation, and conservation purposes without the approval of the Secretary and without provision for suitable replacement land.

(5) Grants under this section shall be made only upon application of the recipient State and shall be in addition to any other Federal financial assistance for any other program, and shall be subject to such terms and conditions as the Secretary deems necessary to carry out the purposes of this section. Any jurisdiction that implements changes to the approved plan which are inconsistent with the purposes of

this section, or adopts or acquiesces in changes to laws [1] regulations or policies necessary to implement or protect the approved plan, without approval of the Secretary, may be liable for reimbursement of all funds previously granted or available to it under the terms of this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants. During the life of the planning commission, changes to the plan must be submitted by the planning commission to the Secretary for approval. No such application for a grant may be made after the date five years from the date of the Secretary's approval of the plan.

(o) Comments on undertakings prior to expenditure of Federal funds or issuance of licenses or permits

The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in the lands and waters within the Santa Monica Mountains Zone, generally depicted on the map referred to in subsection (c) of this section, and the head of any Federal agency having authority to license or permit any undertaking in such lands and waters shall, prior to the approval of the expenditure of any Federal funds on such undertaking or prior to the issuance of any license or permit, as the case may be, afford the Secretary a reasonable opportunity to comment with regard to such undertaking and shall give due consideration to any comments made by the Secretary and to the effect of such undertaking on the "findings" and purposes of this section.

(p) State agency recommendations; consideration

The Secretary shall give full consideration to the recommendations of the California Department of Parks and Recreation, the Santa Monica Mountains Comprehensive Planning Commission, and the California Coastal Commission.

(q) Advisory Commission; establishment and termination; membership; term; meetings; notice, publication in newspapers; compensation and expenses; consultations of Secretary with Commission

(1) There is hereby established the Santa Monica Mountains National Recreation Area Advisory Commission (hereinafter referred to as the "Advisory Commission"). The Advisory Commission shall terminate ten years after the date of establishment of the recreation area.

(2) The Advisory Commission shall be composed of the following members to serve for terms of five years as follows:

(A) one member appointed by the Governor of the State of California;

(B) one member appointed by the mayor of the city of Los Angeles;

(C) one member appointed by the Board of Supervisors of Los Angeles County;

(D) one member appointed by the Board of Supervisors of Ventura County; and

(E) five members appointed by the Secretary, one of whom shall serve as the Commission Chairperson.

(3) The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area. Commission meetings shall be held at locations and in such a manner as to insure adequate public involvement. Such locations shall be in the region of the Santa Monica Mountains and no more than twenty-five miles from it.

(4) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

(5) The Secretary, or his or her designee, shall from time to time but at least semiannually, meet and consult with the Advisory Commission on matters relating to the development of this recreation area and with respect to carrying out the provisions of this section.

(r) Authorization of appropriations for property acquisitions and State grants

There are authorized to be appropriated such sums as may be necessary for acquisition of lands and interests in land within the boundaries of the recreation area established under this section, but not more than $15,000,000 for fiscal year 1979, $40,000,000 for fiscal year 1980, $45,000,000 for fiscal year 1981, $10,000,000 for fiscal year 1982, and $15,000,000 for fiscal year 1983, such sums to remain available until expended. For grants to the State pursuant to subsection (n) of this section there are authorized to be appropriated not more than $10,000,000 for fiscal year 1979, $10,000,000 for fiscal year 1980, $5,000,000 for fiscal year 1981, and $5,000,000 for fiscal year 1982, such sums to remain available until expended. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

(s) Authorization of appropriations for public facilities development

For the development of essential public facilities in the recreation area there are authorized to be appropriated not more than $500,000. The Congress expects that, at least until assessment of the report required by subsection (t) of this section, any further development of the area shall be accomplished by the State of California or local units of government, subject to the approval of the Director, National Park Service.

(t) General management plan; transmission to Congressional committees

Within two years from the date of establishment of the recreation area pursuant to this section, the Secretary shall, after consulting with the Advisory Commission, develop and transmit to the Committees referred to in subsection (c) of this section a general management plan for the recreation area consistent with the objectives of this section. Such plan shall indicate—

(1) a plan for visitor use including the facilities needed to accommodate the health, safety, education and recreation needs of the public;

(2) the location and estimated costs of all facilities;

(3) the projected need for any additional facilities within the area;

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[1] So in original. Comma probably should be inserted between the words "laws" and "regulations".

(4) any additions or alterations to the boundaries of the recreation area which are necessary or desirable to the better carrying out of the purposes of this section; and

(5) a plan for preservation of scenic, archeological and natural values and of fragile ecological areas.

(Pub. L. 95-625, title V, § 507, Nov. 10, 1978, 92 Stat. 3501.)

REFERENCES IN TEXT

This Act, referred to in subsecs. (i) and (q)(4), means Pub. L. 95-625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of this Act in the Code, see Short Title of 1978 Amendment note set out under section 1 of this title and Tables.

CHAPTER 1A—HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES

§ 461. Declaration of national policy

NATIONAL HISTORIC SITES

Historic site	*Date designated*
• • •	• • •
Ansley Wilcox House (Theodore Roosevelt Inaugural) National Historic Site (80 Stat. 1101)	Nov. 2, 1966
• • •	• • •
Edgar Allan Poe National Historic Site, Pennsylvania (92 Stat. 3498)	Nov. 10, 1978
• • •	• • •
Eisenhower National Historic Site (33 FR 16031, see also 83 Stat. 274)	Nov. 27, 1967
Eleanor Roosevelt National Historic Site, New York (91 Stat. 171)	May 26, 1977
Fort Scott National Historic Site, Kansas (92 Stat. 3548)	Nov. 10, 1978
Fort Scott National Historic Site, Kansas (92 Stat. 1610)	Oct. 19, 1978
• • •	• • •
Friendship Hill National Historic Site, Pennsylvania (92 Stat. 3509)	Nov. 10, 1978
• • •	• • •
Maggie L. Walker National Historical Site, Virginia (92 Stat. 3510)	Nov. 10, 1978
• • •	• • •
Palo Alto Battlefield National Historic Site, Texas (92 Stat. 3500)	Nov. 10, 1978
• • •	• • •
Thomas Stone National Historic Site, Maryland (92 Stat. 3510)	Nov. 10, 1978
• • •	• • •

EBEY'S LANDING NATIONAL HISTORICAL RESERVE

Pub. L. 95-625, title V, § 508, Nov. 10, 1978, 92 Stat. 3507, provided:

"(a) [Establishment, area of reserve] There is hereby established the Ebey's Landing National Historical Reserve (hereinafter referred to as the 'reserve'), in order to preserve and protect a rural community which provides an unbroken historical record from nineteenth century exploration and settlement in Puget Sound to the present time, and to commemorate—

"(1) the first thorough exploration of the Puget Sound area, by Captain George Vancouver, in 1792;

"(2) settlement by Colonel Isaac Neff Ebey who led the first permanent settlers to Whidbey Island, quickly became an important figure in Washington Territory, and ultimately was killed by Haidahs from the Queen Charlotte Islands during a period of Indian unrest in 1857;

"(3) early active settlement during the years of the Donation Land Law (1850-1855) [Sept. 27, 1850, ch. 76, 9 Stat. 496, Feb. 14, 1853, ch. 69, 10 Stat. 158, July 17, 1854, ch. 84, 10 Stat. 305] and thereafter; and

"(4) the growth since 1883 of the historic town of Coupeville.

The reserve shall include the area of approximately eight thousand acres identified as the Central Whidbey Island Historic District.

"(b) [Comprehensive plan; transmittal to Congress] (1) To achieve the purpose of this section, the Secretary, in cooperation with the appropriate State and local units of general government, shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

"(A) public use and development;

"(B) historic and natural preservation; and

"(C) private use subject to appropriate local zoning ordinances designed to protect the historical rural setting.

"(2) Within eighteen months following the date of enactment of this section [Nov. 10, 1978], the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives.

"(c) [Cooperative agreement; land use controls; transfer of management and administration; assistance; grants, limitation of amount] At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted such zoning ordinances or other land use controls which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary may, pursuant to cooperative agreement—

"(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

"(2) provide technical assistance to such State or unit of local government in the management, protection, and interpretation of the reserve; and

"(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government for the annual costs of operation and maintenance, including but not limited to, salaries of personnel and the protection, preservation, and rehabilitation of the reserve except that no such grant may exceed 50 per centum of the estimated annual cost, as determined by the Secretary, of such operation and maintenance.

"(d) [Acquisition of property; administration by Secretary] The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this section by donation, purchase with donated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the historic district to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

"Lands and interests therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535) [sections 1 and 2 to 4 of this title], as amended and supplemented, and in a manner consistent with the purpose of this section.

"(e) [Management inconsistencies; notification; modifications; withdrawal; management by Secretary] If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this section, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a ninety-day period in which the transferee may make such modifications in applicable laws, ordinances,

rules, and procedures as will be consistent with such purposes. If, upon the expiration of such ninety-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this section.

"(f) [Authorization of appropriations] There is hereby authorized to be appropriated not to exceed $5,000,000 to carry out the provisions of this section."

SAINT PAUL'S CHURCH, EASTCHESTER

Pub. L. 95-625, title V, § 504, Nov. 10, 1978, 92 Stat. 3498, provided:

"(a) [Acquisition of property] In order to preserve and protect Saint Paul's Church, Eastchester, in Mount Vernon, New York, for the benefit of present and future generations, the Secretary may accept any gift or bequest of any property or structure which comprises such church and any other real or personal property located within the square bounded by South Columbus Avenue, South Third Avenue, Edison Avenue, and South Fulton Avenue, in Mount Vernon, New York, including the cemetery located within such square and any real property located within such square which was at any time a part of the old village green, now in Mount Vernon, New York.

"(b) [Administration; repairs; cooperative agreements: management protection, development and interpretation] Any property acquired under subsection (a) shall be administered by the Secretary acting through the National Park Service, in accordance with this section and provisions of law generally applicable to units of the National Park System, including the Act approved August 25, 1916 (16 U.S.C. 1 and following) [sections 1 and 2 to 4 of this title] and the Act approved August 21, 1935 [sections 461 to 467 of this title]. The Secretary, in carrying out the provisions of such Acts (i) shall give particular attention to assuring the completion of such structural and other repairs as he considers necessary to restore and preserve any property acquired in accordance with this section, and (ii) may enter into cooperative agreements with other public or private entities for the management, protection, development, and interpretation, in whole or in part, of the property so acquired."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 230e, 281e, 282a, 282b, 396d, 397d, 407q, 410u, 410w, 410z-4, 410aa-2, 410bb-1, 410ee, 430m, 450e-1, 450hh-2, 450pp-1, 459h-4, 462, 463, 464, 465, 466, 467, 467a, 468, 469, 1133, 1244 of this title; title 40 sections 304a-2, 871.

§ 462. Administration by Secretary of the Interior; powers and duties enumerated

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 230e, 281e, 282a, 282b, 396d, 397d, 407q, 410u, 410w, 410z-4, 410aa-2, 410bb-1, 410cc-22, 410cc-32, 410ee, 430m, 450e-1, 450hh-2, 450pp-1, 459h-4, 463, 464, 465, 466, 467, 467a, 468, 469, 1133, 1244 of this title; title 40 sections 304a-2, 871.

§ 463. National Park System Advisory Board; establishment; composition; appointment; term; powers and duties; termination

(a) A general advisory board to be known as the National Park System Advisory Board is hereby established, to be composed of not to exceed twelve persons, citizens of the United States, to include but not be limited to representatives competent in the fields of history, archaeology, architecture, and natural science, who shall be appointed by the Secretary for a term not to exceed four years. The Secretary shall take into consideration nominations for appointees from public and private, professional, civic, and educational societies, associations, and institutions. The members of such board shall receive no salary but may be paid expenses incidental to travel when engaged in discharging their duties as members. It shall be the duty of such board to advise the Secretary on matters relating to the National Park System, to other related areas, and to the administration of sections 461 to 467 of this title, including but not limited to matters submitted to it for consideration by the Secretary, but it shall not be required to recommend as to the suitability or desirability of surplus real and related personal property for use as an historic monument.

[*See main edition for text of* (b)]

(As amended Nov. 10, 1978, Pub. L. 95-625, title VI, § 604(2), 92 Stat. 3518.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 increased Board membership to twelve from eleven.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 230e, 281e, 282a, 282b, 396d, 397d, 407q, 410u, 410w, 410z-4, 410aa-2, 410bb-1, 410ee, 430m, 450e-1, 450hh-2, 450pp-1, 459h-4, 462, 464, 465, 466, 467, 467a, 468, 469, 1133, 1244 of this title; title 40 sections 304a-2, 484, 871.

§ 464. Cooperation with governmental and private agencies

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 230e, 281e, 282a, 282b, 396d, 397d, 407q, 410u, 410w, 410z-4, 410aa-2, 410bb-1, 410ee, 430m, 450e-1, 450hh-2, 450pp-1, 459h-4, 462, 463, 465, 466, 467, 467a, 468, 469, 1133, 1244 of this title; title 40 sections 304a-2, 871.

§ 465. Jurisdiction of States in lands acquired

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 230e, 281e, 282a, 282b, 396d, 397d, 407q, 410u, 410w, 410z-4, 410aa-2, 410bb-1, 410ee, 430m, 450e-1, 450hh-2, 450pp-1, 459h-4, 462, 463, 464, 466, 467, 467a, 468, 469, 1133, 1244 of this title; title 40 sections 304a-2, 871.

§ 466. Authorization of appropriations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 230e, 281e, 282a, 282b, 396d, 397d, 407q, 410u, 410w, 410z-4, 410aa-2, 410bb-1, 410ee, 430m, 450e-1, 450hh-2, 450pp-1, 459h-4, 462, 463, 464, 465, 467, 467a, 468, 469, 1133, 1244 of this title; title 40 sections 304a-2, 871.

§ 467. Conflict of laws

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 230e, 281e, 282a, 282b, 396d, 397d, 407q, 410u, 410w, 410z-4, 410aa-2, 410bb-1, 410ee, 430m, 450e-1, 450hh-2, 450pp-1, 459h-4, 462, 463, 464, 465, 466, 467a, 468, 469, 1133, 1244 of this title; title 40 sections 304a-2, 871.

§ 469c. Assistance to Secretary of the Interior by Federal agencies responsible for construction projects; authorization of appropriations

[See main edition for text of (a)]

(b) For the purposes of section 469a-1(b) of this title, there are authorized to be appropriated such sums as may be necessary, but not more than $500,000 in fiscal year 1974; $1,000,000 in fiscal year 1975; $1,500,000 in fiscal year 1976; $1,500,000 in fiscal year 1977; $1,500,000 in fiscal year 1978; $500,000 in fiscal year 1979; $1,000,000 in fiscal year 1980; $1,500,000 in fiscal year 1981; $1,500,000 in fiscal year 1982; and $1,500,000 in fiscal year 1983.

(c) For the purposes of section 469a-2(a) of this title, there are authorized to be appropriated not more than $2,000,000 in fiscal year 1974; $2,000,000 in fiscal year 1975; $3,000,000 in fiscal year 1976; $3,000,000 in fiscal year 1977; $3,000,000 in fiscal year 1978; $3,000,000 in fiscal year 1979; $3,000,000 in fiscal year 1980; $3,500,000 in fiscal year 1981; $3,500,000 in fiscal year 1982; and $4,000,000 in fiscal year 1983.

(d) Beginning fiscal year 1979, sums appropriated for purposes of this section shall remain available until expended.

(As amended Pub. L. 95-625, title VI, § 603, Nov. 10, 1978, 92 Stat. 3518.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-625, § 603(a), (b), authorized appropriation of $500,000 for fiscal year 1979, $1,000,000 for fiscal year 1980, and $1,500,000 for fiscal years 1981 through 1983.

Subsec. (c). Pub. L. 95-625, § 603(a), (c), authorized appropriation of $3,000,000 for fiscal years 1979, and 1980, $3,500,000 for fiscal years 1981, and 1982, and $4,000,000 for fiscal year 1983.

Subsec. (d). Pub. L. 95-625, § 603(a), (d), added subsec. (d).

§ 470. Congressional finding and declaration of policy

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470a. National Register; grants for comprehensive surveys; matching grants-in-aid to National Trust for Historic Preservation in the United States; nondisclosure of location information relating to sites and objects; risk of destruction; definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 410cc-22, 410cc-32, 470b, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470b. Requirements for awarding of grant funds

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470c. Apportionment of grant funds; reapportionment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470d. Prohibition against grants to surveys or projects receiving assistance from other Federal programs; rules and regulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470e. Required record keeping by recipients of assistance

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470f. Effect of Federal undertakings upon property listed in National Register; comment by Advisory Council on Historic Preservation

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 470h, 470s, 1247 of this title; title 26 section 191.

§ 470g. White House, United States Supreme Court building, and United States Capitol not included in program for preservation of historical properties

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470h, 1247 of this title; title 26 section 191.

§ 470h. Historic Preservation Fund; establishment; appropriations; source of revenue

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 1247 of this title; title 26 section 191.

§ 470i. Advisory Council on Historic Preservation; establishment; membership; term; vacancies; designation of Chairman and Vice Chairman; quorum

(a) Establishment; composition

There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation (hereinafter referred to as the "Council") which shall be composed of twenty-nine members as follows:

[See main edition for text of (1) to (8)]

(9) The Director of the International Communication Agency;

[See main edition for text of (10) to (18); (b) to (f)]

(As amended 1977 Reorg. Plan No. 2, § 7(a)(15), 42 F.R. 62461, 91 Stat. 1637.)

TRANSFER OF FUNCTIONS

"Director of the International Communication Agency" was substituted for "Secretary of State" in

subsec. (a)(9) pursuant to Reorg. Plan No. 2 of 1977, § 7(a)(15), 42 F.R. 62461, 91 Stat. 1637, set out in the Appendix to Title 5, Government Organization and Employees, effective on or before July 1, 1978, at such time as specified by the President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470f, 470g, 470h, 470k, 470l, 470m, 1247 of this title; title 26 section 191; title 40 section 611.

§ 470j. Functions of Council; annual report to President and Congress; recommendations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470f, 470g, 470h, 470k, 470m, 1247 of this title; title 26 section 191.

§ 470k. Cooperation between Council and instrumentalities of Executive Branch of Federal government

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470f, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470l. Compensation of members of Council

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470f, 470g, 470h, 470k, 1247 of this title; title 26 section 191.

§ 470m. Administration

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470f, 470g, 470h, 470k, 1247 of this title; title 26 section 191.

§ 470n. International Centre for Study of Preservation and Restoration of Cultural Property; United States participation; Council recommendations; Authorization of appropriations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470f, 470g, 470h, 470k, 1247 of this title; title 26 section 191.

§ 470o. Transfer of personnel, property, etc., by Department of Interior to Council; time limit

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470p. Rights, benefits, and privileges of transferred employees

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470q. Operations of Council; exemption

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470r. Transmittal of legislative recommendations, or testimony, or comments to President, Office of Management and Budget, and congressional committees; prohibition

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470s. Rules and regulations

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

§ 470t. Budget; authorization of appropriations

(a) The Council shall submit its budget annually as a related agency of the Department of the Interior. To carry out the provisions of sections 470i to 470t of this title, there are authorized to be appropriated not more than $1,500,000 in fiscal year 1977, $1,750,000 in fiscal year 1978, and $2,000,000 in fiscal year 1979. There are authorized to be appropriated not to exceed $2,250,000 in fiscal year 1980.

[*See main edition for text of* (b)]

(As amended Pub. L. 95-625, title VI, § 614, Nov. 10, 1978, 92 Stat. 3521.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 authorized appropriation of $2,250,000 in fiscal year 1980.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 398f, 470a, 470b, 470c, 470d, 470e, 470g, 470h, 1247 of this title; title 26 section 191.

CHAPTER 2—THE NATIONAL FORESTS

SUBCHAPTER I—ESTABLISHMENT AND ADMINISTRATION

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(h) Grants for State acquisition of property; Secretary's acquisition and administration of property; conveyance by Secretary, terms and conditions; State reimbursement; grant authorization and applications; limitation.
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(j) Federal action pursuant to Federal court or agency orders related to public health or safety, national security or defense, or environmental values unaffected.
(k) Authorization of appropriations; sources for appropriations.

SUBCHAPTER I—ESTABLISHMENT AND ADMINISTRATION

CROSS REFERENCE

National Forest System, see section 1609 of this title.

§ 471i. Pine Barrens Area, New Jersey

(a) Congressional findings

The Congress finds that—

(1) the Pinelands area in New Jersey, containing approximately 1,000,000 acres of pine-oak forest, extensive surface and ground water resources of high quality, and a wide diversity of rare plant and animal species, provides significant ecological, natural, cultural, recreational, educational, agricultural, and public health benefits;

(2) there is a national interest in protecting and preserving these benefits for the residents of and visitors to the area;

(3) a primary responsibility for protecting and enhancing these benefits resides with the State of New Jersey and the various local units of government having jurisdiction over the area;

(4) in view of the longstanding Federal practice of assisting the States in creating, protecting, preserving, and enhancing areas of significant regional and urban importance, and in view of the national significance of this resource, the Federal Government has an interest in assisting the State of New Jersey and its local units of government in fulfilling their responsibilities and in avoiding adverse Federally approved or assisted impacts before these responsibilities can be undertaken;

(5) the State of New Jersey and its local units of government have authority to prevent or minimize adverse uses of the land and water resources of the Pinelands area and can, to a great extent, protect the health, safety, and general welfare by the use of such authority; and

(6) there is a demonstrated need to protect, preserve and enhance the land and water resources of the Pinelands area through a new program which combines the capabilities and resources of the local, State and Federal governments and the private sector and provides an alternative to large-scale direct Federal acquisition and management in cases where such acquisition and management is inappropriate.

(b) Congressional purposes statement

The purposes of this section are—

(1) to protect, preserve and enhance the significant values of the land and water resources of the Pinelands area;

(2) to encourage and assist the State of New Jersey and its units of local government in the development of a comprehensive management plan for the Pinelands area in order to assure orderly public and private development in the area consistent with the findings of this section;

(3) to provide, during the development of this comprehensive plan, Federal financial assistance for the acquisition of lands in the Pinelands area that have critical ecological values which are in immediate danger of being adversely affected or destroyed;

(4) to encourage and assist the State and its units of local government in developing a governmental mechanism to implement this comprehensive plan, and to provide Federal financial assistance for the acquisition of lands consistent with the comprehensive plan;

(5) to encourage adequate coordination of all government programs affecting the land and water resources of the Pinelands area.

(c) Pinelands National Reserve and Federal Project Review Area; establishment; map, availability

There is hereby established the Pinelands National Reserve which shall consist of the approximately 1,000,000-acre area generally depicted on the map entitled "Pinelands National Reserve Boundary Map" numbered NPS/80,011 A and dated September 1978. Within the Pinelands National Reserve, there is hereby established the Federal Project Review Area, which shall consist of the approximately 486,000 acre area also depicted on the map. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, and in the offices of the State of New Jersey planning entity established pursuant to subsection (d) of this section, and in locations throughout the Pinelands National Reserve as determined by the planning entity.

(d) State planning entity for development of comprehensive management plan; membership; representation of interests; assistance and grants to State

Within thirty days after November 10, 1978, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall request the Governor of the State of New Jersey to establish, within ninety days of such request, a planning entity to develop a comprehensive management plan for the Pinelands National Reserve. In order to carry out the purposes of this section, such planning entity shall be composed of fifteen members to be appointed as follows: one member appointed by the Secretary; one member from each of the seven counties in the Pinelands National Reserve to be appointed by the respective governing bodies of each county; and seven members to be appointed by the Governor. The membership of the planning entity shall include residents of the Pinelands National Reserve who represent economic activities such as agriculture in the area, as well as residents of New Jersey who represent conservation interests. The Secretary shall provide tech-

nical assistance and grants to the State for the development of the plan or revisions thereof: *Provided*, That such grants shall not exceed 75 percent of the cost of developing the plan, shall be made only upon application of the Governor, on behalf of the planning entity, and shall be subject to such other conditions as the Secretary may deem appropriate to assure State and local interim protection of the area.

(e) Planning entity consultations; public hearings

During the development of the management plan, the planning entity shall:

(1) consult with appropriate officials of any local government or State or Federal agency which has jurisdiction over lands and waters within the area;

(2) consult with the officials of any local government which has jurisdiction over lands and waters within areas delineated in accordance with subsection (f)(2)(B) of this section;

(3) consult with interested professional, scientific and citizen organizations;

(4) consult with a citizens advisory committee which may be established by the Governor; and

(5) conduct public hearings at places within the area, and at such other places as may be appropriate, for the purpose of providing interested persons with an opportunity to express their views with respect to matters covered by the management plan.

(f) Comprehensive management plan; terms and provisions; resource assessment; boundary map, delineations; land use map and policy statement; coordination and consistency, public use, and financial components; programs; water implementation plan

The comprehensive management plan for the Pinelands National Reserve shall include, but need not be limited to—

(1) A resource assessment which:

(A) determines the amount and type of human development and activity which the ecosystem can sustain while still maintaining the overall ecological values described in this section with special reference to (i) ground and surface water supply and quality; (ii) natural hazards, including fire; (iii) endangered, unique and unusual plants and animals and biotic communities; (iv) ecological factors relating to the protection and enhancement of blueberry and cranberry production and other agricultural activity; (v) air quality; and (vi) other appropriate considerations affecting the ecological integrity of the area; and

(B) includes an assessment of scenic, aesthetic, cultural, open space, and outdoor recreation resources of the area together with a determination of overall policies required to maintain and enhance these resources.

(2) A map showing the detailed boundary of the Pinelands National Reserve, such map to delineate:

(A) major areas within the boundary which are of critical ecological importance;

(B) major areas and resources adjacent to the boundary that have significance to the ecological integrity of the Pinelands National Reserve; and

(C) areas of scenic, open space, cultural and recreational significance.

(3) A land use capability map and a comprehensive statement of policies for land use management of the area which:

(A) consider and detail the application of a variety of land and water protection and management techniques, including but not limited to, zoning and regulation derived from State and local police powers, development and use standards and permit systems, acquisition of conservation easements and other interests in land, public access agreements with private landowners, purchase of land for resale or lease-back, fee acquisition of public recreation sites and ecologically sensitive areas and any other method of land and water protection and management which will help meet the goals and carry out the policies of the management plan;

(B) include a policy for the use of State and local police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section; and

(C) recognize existing economic activities within the area and provide for the protection and enhancement of such activities as farming, forestry, proprietary recreational facilities, and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this section.

(4) A coordination and consistency component which details the ways in which local, State and Federal programs and policies may best be coordinated to promote the goals and policies of the management plan, and which details how land, water and structures managed by governmental or nongovernmental entities in the public interest within the area may be integrated into the management plan.

(5) A public use component including, among other items, a detailed program to educate the public concerning appropriate uses of the area.

(6) A financial component, together with a cash flow timetable, which:

(A) details the cost of implementing the management plan, including, but not limited to, payments in lieu of taxes, general administrative costs, and any anticipated extraordinary or continuing costs; and

(B) details the sources of revenue for covering such costs, including, but not limited to, grants, donations and loans from local, State, and Federal departments and agencies, and from the private sector.

(7) A program to provide for the maximum feasible local government and public participation in the management of the Pinelands National Reserve.

(8) A program for State and local governmental implementation of the comprehensive management plan in a manner that will insure the continued, uniform, consistent protection of this area in accord with the purposes of this section.

(9) In conjunction with existing State programs and planning processes, a plan to im-

plement the provisions of the Clean Water Act and the Safe Drinking Water Act [42 U.S.C. 300f et seq.] which pertain to the surface and ground waters of the Pinelands National Reserve.

(g) Comprehensive management plan and revisions; approval by Secretary; submission to Congress; approval considerations; disapproval and revision recommendations, notification; resubmission and consideration; Federal assistance, termination; modifications and revisions; reimbursement

(1) The State of New Jersey, through the planning entity, shall adopt and submit to the Secretary a comprehensive management plan within eighteen months after the date that funds are first provided for its preparation under subsection (d) of this section. In the event the State fails to submit the plan within such time period, the Secretary may obtain reimbursement or offset from the State of all Federal funds previously granted under this section. The Secretary shall, within ninety days after the date the plan is submitted to him, either approve or disapprove the plan. Should the Secretary fail to act on the proposed plan within ninety days, the plan shall be regarded as approved. Upon approval, the Secretary shall submit the plan to the Congress for a period of ninety days prior to implementation.

(2) In determining whether or not to approve the management plan, the Secretary shall consider whether:

(A) the planning entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation and review of the plan, and whether such review and comment thereon were considered in the plan or revision as presented to him;

(B) he has received adequate assurances from appropriate State officials that the recommended implementation program identified in the plan will be initiated within a reasonable time after the date of approval of the plan and such program will insure effective implementation of the State and local aspects of the plan;

(C) provision is made for the participation of a Federal representative in the implementation program;

(D) the plan requires the exercise of police power responsibilities to the greatest extent practicable to regulate the use of land and water resources in a manner consistent with the purposes of this section;

(E) the plan, if implemented, would adequately protect the significant natural, ecological, agricultural, scenic, cultural and recreational resources of the Pinelands National Reserve and, consistent with such protection, provide adequate and appropriate outdoor recreational opportunities and economic activities within the area;

(F) the plan provides for the Governor of the State of New Jersey to exercise effective and continuing oversight over its implementation; and

(G) after consultation with the Secretary of Defense, the national defense mission of the military installations within, contiguous or adjacent to the Pinelands National Reserve has been adequately provided for.

(3) If the Secretary disapproves the management plan or a revision thereof, he shall, within sixty days after the date of such disapproval, advise the planning entity in writing of the reasons therefor, together with his recommendations for revision. The State of New Jersey, through the planning entity shall, within one hundred and twenty days after receipt by the planning entity of notification of such disapproval, revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within sixty days after the date it is submitted to him. Should the Secretary fail to act on a proposed revision within sixty days, the revision shall be considered as approved.

(4) The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section.

(5) In the event that the planning entity fails to obtain approval of the plan by the Secretary within thirty-six months after the date funds are first provided under subsection (d) of this section for development of the plan, the Secretary shall terminate all Federal assistance for and participation in the development of such plan, and may obtain reimbursement or offset from the State of New Jersey of all Federal funds previously granted under this section.

(6) The Secretary shall provide technical assistance for and monitor at periodic intervals the implementation of the approved management plan. A local jurisdiction or the State shall obtain the approval of the Secretary prior to any modification of the approved plan. The Secretary shall consider a plan revision in accordance with the procedure set forth in paragraph (2). Such revisions must be consistent with the purposes of this section. Any jurisdiction that implements changes to the approved management plan, or adopts or acquiesces in changes to laws, regulations, or policies adopted to implement such plan, without approval of the Secretary, may be liable for reimbursement or offset of all Federal funds previously granted to it under this section without regard to such additional terms and conditions or other requirements of law that may be applicable to such grants.

(h) Grants for State acquisition of property; Secretary's acquisition and administration of property; conveyance by Secretary, terms and conditions; State reimbursement; grant authorization and applications; limitation

(1)(A) During the development of the management plan, the Secretary is authorized to make grants to the State of New Jersey for the acquisition of lands and waters or interests therein within the Pinelands National Reserve that he determines, in consultation with the State planning entity, have critical ecological values which are in immediate danger of being adversely affected or destroyed.

(B) The grants authorized by subsection (h)(1)(A) of this section together with the grants made under paragraph (4) of this subsection, shall (i) be made in a manner consistent

with the requirements of the Land and Water Conservation Fund Act [16 U.S.C. 460*l*–4 et seq.]; (ii) not exceed 75 percent of the total cost of all property acquired by the State pursuant to this subsection; (iii) be supplemental to any other Federal financial assistance for any other program; and (iv) be subject to such additional terms and conditions as the Secretary may deem necessary to effectuate the purposes of this section.

(2) In the event the State elects not to make acquisitions as authorized under subsection (h)(1) of this section, the Secretary, during the development of the management plan, is authorized to acquire such lands, waters or interests therein by donation, purchase with donated or appropriated funds, exchange, or otherwise, and to administer such property under the laws generally applicable to units of the National Park System or National Wildlife Refuge System in a manner to carry out the purposes of this section.

(3) After his approval of the management plan, the Secretary (A) is authorized to convey property acquired pursuant to subsection (h)(2) of this section to State or local authorities in accordance with the management plan, under such terms and conditions as he may deem appropriate, which shall include (i) a requirement that where the Secretary transfers land acquired with appropriated funds, the State or local government shall repay not less than 25 percent of the cost of such lands to the Secretary under such terms and conditions as he may deem appropriate, and (ii) a retention of a right of reversion of title to the United States, and (B) shall accept from the State those lands acquired pursuant to subsection (h)(1) of this section, which are identified in the management plan as being appropriate for Federal ownership and management: *Provided*, That the Secretary shall reimburse to the State such sums as are necessary to (i) cover 100 percent of the original cost of acquisition as to each parcel of land so transferred and (ii) assure that as to the remainder of lands acquired pursuant to subsection (h)(1) of this section not transferred under this subsection, the total Federal land acquisition cost does not exceed 75 percent of the purchase price of such lands.

(4) Upon approval of the management plan, the Secretary is authorized to make grants for the acquisition within the Pinelands National Reserve of lands and waters or interests therein in a manner consistent with the management plan. All applications for such grants shall be made within ten years from the date of implementation of the management plan.

(i) Applications for Federal construction assistance; review by planning entity; notifications; commencement of review process

During the development of the management plan for the Pinelands National Reserve, all applications for Federal assistance under programs covered by Part I of OMB Circular A–95 and direct Federal actions covered by Part II of OMB Circular A–95 within the Federal Project Review Area generally depicted on the map referred to in subsection (c) of this section which involve the construction of housing, industrial parks, highways, or sewage or water treatment facilities shall be reviewed by the planning entity, upon receipt from the New Jersey State A–95 Clearinghouse (hereinafter referred to as the Clearinghouse). If the planning entity finds that such application or proposed action would have no adverse impact on the resources and ecological values of the Federal Project Review Area, the planning entity shall so notify the Clearinghouse. If the planning entity does not so find, Congress authorizes the planning entity to notify the Clearinghouse and other affected parties that such application or proposed action shall not proceed pending further review, and the planning entity shall forward such application or notice of proposed action to the Secretary. Any such application or proposed action which the Secretary determines would be significantly adverse to the purposes of this section shall not proceed while the management plan is being developed. The review process established under this subsection shall begin upon the appropriation of funds under subsection (k) of this section.

(j) Federal action pursuant to Federal court or agency orders related to public health or safety, national security or defense, or environmental values unaffected

Nothing in this section shall be construed to limit or prohibit any Federal action ordered by a court of competent jurisdiction or directed by a Federal agency as essential for the protection of public health or safety, for national security or defense, or for the maintenance of environmental values within the Pinelands National Reserve or the Federal Project Review Area.

(k) Authorization of appropriations; sources for appropriations

There is authorized to be appropriated not to exceed $26 million to carry out the provisions of this section. Not to exceed $3 million shall be available for planning: *Provided*, That any funds not used for planning shall be available for land acquisition; *Provided further*, That $23,000,000 shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended [43 U.S.C. 1331 et seq.], which would otherwise be credited to miscellaneous receipts.

(Pub. L. 95–625, title V, § 502, Nov. 10, 1978, 92 Stat. 3492.)

REFERENCES IN TEXT

The Clean Water Act, referred to in subsec. (f)(9), probably means Pub. L. 95–217, Dec. 27, 1977, 91 Stat. 1566, known as the Clean Water Act of 1977, which enacted sections 1281a, 1294 to 1296, and 1297 of Title 33, Navigation and Navigable Waters, amended sections 1251, 1252, 1255, 1256, 1259, 1262, 1263, 1281, 1282 to 1288, 1291, 1292, 1311, 1314, 1315, 1317 to 1319, 1321 to 1324, 1328, 1341, 1342, 1344, 1345, 1362, 1364, 1375, and 1376 of Title 33, enacted provisions set out as notes under sections 1251, 1284, 1286, 1314, 1321, 1342, 1344, and 1376 of Title 33, and amended a provision set out as a note under section 1251 of Title 33. For complete classification of this Act to the Code, see Short Title of 1977 Amendment note set out under section 1251 of Title 33 and Tables.

The Safe Water Drinking Act, referred to in subsec. (f)(9) is Pub. L. 93–523, Dec. 16, 1974, 88 Stat. 1660, as

amended, which is classified principally to subchapter XII (§ 300f et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1974 Amendments note set out under section 201 of Title 42 and Tables.

The Land and Water Conservation Fund Act referred to in subsec. (h)(1)(B), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified principally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of this title and Tables.

The Outer Continental Shelf Lands Act, as amended, referred to in subsec. (k), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

§ 472a. Timber sales on National Forest System lands

[See main edition for text of (a) to (d)]

(e) Bidding methods; purposes; oral auction procedures; monitoring and enforcement for prevention of collusive practices

(1) In the sale of trees, portions of trees, or forest products from National Forest System lands (hereinafter referred to in this subsection as "national forest materials"), the Secretary of Agriculture shall select the bidding method or methods which—

(A) insure open and fair competition;

(B) insure that the Federal Government receive not less than the appraised value as required by subsection (a) of this section;

(C) consider the economic stability of communities whose economies are dependent on such national forest materials, or achieve such other objectives as the Secretary deems necessary; and

(D) are consistent with the objectives of this Act and other Federal statutes.

The Secretary shall select or alter the bidding method or methods as he determines necessary to achieve the objectives stated in clauses (A), (B), (C), and (D) of this paragraph.

(2) In those instances when the Secretary selects oral auction as the bidding method for the sale of any national forest materials, he shall require that all prospective purchasers submit written sealed qualifying bids. Only prospective purchasers whose written sealed qualifying bids are equal to or in excess of the appraised value of such national forest materials may participate in the oral bidding process.

(3) The Secretary shall monitor bidding patterns involved in the sale of national forest materials. If the Secretary has a reasonable belief that collusive bidding practices may be occurring, then—

(A) he shall report any such instances of possible collusive bidding or suspected collusive bidding practices to the Attorney General of the United States with any and all supporting data;

(B) he may alter the bidding methods used within the affected area; and

(C) he shall take such other action as he deems necessary to eliminate such practices within the affected area.

[See main edition for text of (f) to (i)]

(As amended Pub. L. 95-233, Feb. 20, 1978, 92 Stat. 32.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (a), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables volume.

This Act, referred to in subsec. (e)(1), is Pub. L. 94-588, Oct. 22, 1976, 90 Stat. 2949, known as the National Forest Management Act of 1976. For complete classification of this Act to the Code, see Short Title of 1976 Amendment note set out under section 1600 of this title and Tables.

AMENDMENTS

1978—Subsec. (e). Pub. L. 95-233 substituted provisions authorizing the Secretary of Agriculture to select bidding method or methods to achieve the purposes of par. (1) of this subsec., procedures for use of oral auction as the bidding method, and procedures for monitoring and enforcement to prevent collusive practices, for provisions authorizing the Secretary to take such action as deemed necessary to prevent collusive practices, and setting forth requirements for enforcement.

§ 473. Revocation, modification, or vacation of orders or proclamations establishing national forests

CROSS REFERENCES

Prohibition on return to public domain of land reserved or withdrawn from the public domain as national forests except by act of Congress, see section 1609 of this title.

§ 482b. Mount Hood National Forest; mining rights

BULL RUN WATERSHED MANAGEMENT UNIT

Pub. L. 95-200, Nov. 23, 1977, 91 Stat. 1425, provided that:

"PREAMBLE

"The Congress finds that an area of land in the State of Oregon known variously as the Bull Run National Forest and the Bull Run Forest Reserve is presently the source of the sole domestic water supply for the city of Portland, Oregon (hereinafter called the 'city') and other local governmental units and persons in the Portland metropolitan area, reserved for the city by a Presidential proclamation issued in 1892 and furnishing an extremely valuable resource of pure clear raw potable water, the continued production of which should be the principal management objective in the area hereinafter referred to as 'the unit'; that the said area is now managed under terms of a Federal court decree issued pursuant to turn of the century law which does not appropriately address present and future needs and opportunities for the protection, management, and utilization of the resources contained therein.

"DESIGNATION OF UNIT

"Section 1. There is hereby established, subject to valid existing rights, a special resources management unit within the Mount Hood National Forest, State of Oregon, comprising approximately 95,382 acres as depicted on a map dated April 1977, and entitled 'Bull Run Watershed Management Unit, Mount Hood National Forest', which is on file and available for public inspection in the offices of the Chief, and the Regional Forester—Pacific Northwest Region, Forest Service, Department of Agriculture, minor adjustments in the

boundaries of which may be made from time to time by the Secretary of Agriculture (hereinafter the 'Secretary') after consultation with the city and appropriate public notice and hearings.

"MANAGEMENT

"Sec. 2. (a) The unit and the renewable resources therein, shall be administered as a watershed by the Secretary of Agriculture in accordance with the laws, rules, and regulations applicable to National Forest System lands except to the extent that any management plan or practice is found by the Secretary to have a significant adverse effect on compliance with the water quality standards referred to in section 2(b) hereof or on the quantity of the water produced thereon for the use of the city, and other local government units and persons using such water under agreements with the city (and the Secretary shall take into consideration the cumulative effect of individually insignificant degradations), in which case, and notwithstanding any other provision of law, the management plan and all relevant leases, permits, contracts, rights-of-way, or other rights or authorizations issued pursuant thereto shall forthwith be altered by the Secretary to eliminate such adverse effect by application of different techniques or prohibitions of one or more such practices or uses: *Provided, however,* That use of such water for the production of energy and the transmission of such energy through and over the unit are deemed consistent with the purposes of this Act and the rights-of-way heretofore granted to Bonneville Power Administration by the Forest Service through and over the unit are validated and confirmed and deemed consistent with the purposes of this Act.

"(b) The policy set forth in subsection (a) shall be attained through the development, maintenance, and periodic revision of land management plans in accordance with procedures set forth in section 5 [6] of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477, as amended; 16 U.S.C. 1604), through the maintenance of systems for monitoring and evaluating water quality, and through supporting scientific research as the Secretary may deem necessary after consultation and in coordination with the city. In the development and revision of land management plans for the unit, the Secretary, except as otherwise provided in section 2(a) hereof, shall provide for public participation and shall consult and coordinate with appropriate officials and advisors of the city, and shall consider such data and research as the city may collect through its own monitoring systems and scientific efforts, if any. Such plans shall be prepared by an interdisciplinary team; be embodied in appropriate written material, including maps and other descriptive documents; shall contain water quality standards developed by the Secretary after consultation and in cooperation with the city, which standards shall be substantially based on and shall reflect a quality of water not significantly less than the quality reflected by percentile curves developed from data collected from 1967 through 1975 and, if none, from data collected in the first three years of record thereafter; and be available to the public at convenient locations. The initial plan or plans shall be completed as soon as practicable after the enactment of this Act [Nov. 23, 1977], but not later than September 30, 1979. Current data shall be compared to historical data at least annually for the purpose of determining compliance with the standards and the significance of any deviation therefrom. Deviations occurring from operation, maintenance, alteration, or construction of water storage, or electrical generation and transmission facilities, seasonal fluctuations, variations in climate, and other natural phenomena, fire, or acts of God, shall not be considered in determining the historical or current percentile curves.

"(c) The Secretary or his representative shall, upon request, and at least annually, meet with appropriate officials of the city for the purpose of reviewing planned management programs and the impact thereof on the quality and quantity of the water produced on the unit and assuring that their respective management and operational activities within the unit are appropriately coordinated. The Secretary shall negotiate in good faith cooperative agreements with appropriate officials of the city to effectuate activity coordination.

"(d) In the event there is disagreement between the city and the Secretary with respect to the development or revision of the water quality standards provided for herein, or with respect to the effect or the significance of such effect of one or more proposed or existing programs, practices, uses, regulations, or boundary adjustments (except as otherwise specifically provided for herein), on the quantity of the water produced on said unit, or on compliance with the water quality standards referred to in section 2(a) and (b) hereof and, therefore, with respect to the necessity for an alteration or prohibition of any such program, practice, use, regulation, or boundary adjustment as required in section 2(a) hereof, an arbitration board for resolving such disagreements shall be established. The Secretary and the city shall, each, forthwith appoint one member to such board and those two members shall select a third. In the event agreement cannot be reached on the third member within seven days after the appointment of the first two, the third member shall be appointed by the presiding judge of the United States District Court for the District of Oregon within seven days after being notified of such disagreement by either of the first two members. All of said members shall be qualified to make a scientific determination of the facts. The contentions of the city and the Secretary shall be submitted to the board in the form of written contentions of fact together with the evidence and analysis that tends to support the position being presented. The board shall forthwith consider and decide, on a scientific basis, the issues in disagreement by majority vote, taking into consideration the evidence and data presented by the parties and such other tests and data which the board by majority vote may require. The decision of such board shall be in the form of written findings of fact and conclusions based thereon and shall be final and binding on the parties. The Secretary and the city shall compensate their designees and share equally the compensation of the third member, and shall provide such technical and administrative support as required.

"(e) The Secretary is authorized, after consultation with the city, to promulgate regulations for controlling entry into the unit by all persons including but not limited to—

"(1) employees or contractors of the city engaged in the inspection, maintenance, construction, or improvement of the city's facilities;

"(2)(i) Federal, State, and local government officers and (ii) employees thereof acting in an official capacity;

"(3) Federal, State, and local government permittees and contractors conducting authorized activities;

"(4) members of advisory groups formed pursuant to this Act or ordinances of the city in the performance of their official duties:

Provided, That no regulation promulgated pursuant to this subsection shall prohibit ingress or egress to non-Federal lands or to authorized occupancies on, or uses of, Federal lands: *Provided further,* That the Secretary may independently and directly prohibit or restrict all entry into the unit during fire or other emergencies as he may determine.

"EFFECT ON OTHER LAWS

"Sec. 3. (a) Nothing in this Act shall terminate or affect any lease, permit, contract, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act [Nov. 23, 1977] and otherwise valid except for the provisions of section 1862 of title 18 of the United States Code.

"(b) Nothing in this Act shall in any way affect any law governing appropriation or use of, or Federal right

to, water on National Forest System lands; or as expanding or diminishing Federal, State, or local jurisdiction, responsibility, interests, or rights in water resources development or control.

"(c) Section 1862 of title 18 of the United States Code is hereby repealed.

"(d) Except as otherwise provided for herein, this Act shall take precedence over and supersede all State and local laws dealing with or affecting the subject matter of this Act.

"(e) Challenge to actions taken by any governmental unit or official under the provisions of this Act shall not be sustained by any court except upon a showing or arbitrary, unreasonable, capricious, or illegal action or an absence of substantial good faith compliance with the procedural provisions hereof substantially prejudicing the rights of an interested party."

§ 500. Payment and evaluation of receipts to State or Territory for schools and roads; moneys received; projections of revenues and estimated payments

On and after May 23, 1908, twenty-five per centum of all moneys received during any fiscal year from each national forest shall be paid, at the end of such year, by the Secretary of the Treasury to the State or Territory in which such national forest is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: *Provided*, That when any national forest is in more than one State or Territory or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein. In sales of logs, ties, poles, posts, cordwood, pulpwood, and other forest products the amounts made available for schools and roads by this section shall be based upon the stumpage value of the timber. Beginning October 1, 1976, the term "moneys received" shall include all collections under the Act of June 9, 1930, and all amounts earned or allowed any purchaser of national forest timber and other forest products within such State as purchaser credits, for the construction of roads on the National Forest Transportation System within such national forests or parts thereof in connection with any Forest Service timber sales contract. The Secretary of Agriculture shall, from time to time as he goes through his process of developing the budget revenue estimates, make available to the States his current projections of revenues and payments estimated to be made under the Act of May 23, 1908, as amended, or any other special Acts making payments in lieu of taxes, for their use for local budget planning purposes.

(May 23, 1908, ch. 192, 35 Stat. 260; Mar. 1, 1911, ch. 186, § 13, 36 Stat. 963; June 30, 1914, ch. 131, 38 Stat. 441; Sept. 21, 1944, ch. 412, title II, § 212, 58 Stat. 737; Apr. 24, 1950, ch. 97, § 17(b), 64 Stat. 87; Oct. 22, 1976, Pub. L. 94-588, § 16, 90 Stat. 2961.)

CODIFICATION

Section is set out in this supplement to restore reference to Territories which had been omitted by the original codifiers.

PRIOR PROVISIONS

Similar prior provisions were contained in act May 23, 1908, ch. 192, 35 Stat. 260.

§ 527. Use of Forest Service funds for administration of certain lands

REFERENCES IN TEXT

Sections 564, 565, 566, and 567 of this title, enacted by Act of June 7, 1924, which is referred to in text, were repealed by Pub. L. 95-313, § 13(a)(1), July 1, 1978, 92 Stat. 374.

§ 528. Development and administration of renewable surface resources for multiple use and sustained yield of products and services; Congressional declaration of policy and purpose

ACT REFERRED TO IN OTHER SECTIONS

The Multiple-Use Sustained-Yield Act of 1960 is referred to in sections 472a, 670h, 1133, 1600, 1602, 1604, 1607 of this title; title 30 section 1272.

§ 532. Roads and trails system; Congressional findings and declaration of policy

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 533, 534, 536, 1608 of this title; title 43 section 1770.

§ 538. User fees fund for delayed payments to grantors

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 533, 534, 536, 1608 of this title; title 43 section 1770.

CHAPTER 3—FORESTS; FOREST SERVICE; REFORESTATION; MANAGEMENT

SUBCHAPTER I—GENERAL PROVISIONS

§ 558d. Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 558a to 558d of this title.

(As amended Pub. L. 95-289, § 1, June 5, 1978, 92 Stat. 289.)

AMENDMENTS

1978—Pub. L. 95-289 struck out limitation requiring not more than $100,000 to be appropriated in any one year.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2 of Pub. L. 95-289 provided that: "The amendment made by this Act to the Volunteers in the National Forests Act of 1972 [amending this section] shall become effective October 1, 1978."

§§ 564, 565. Repealed. Pub. L. 95-313, § 13(a)(1), July 1, 1978, 92 Stat. 374

Section 564, act June 7, 1924, ch. 348, § 1, 43 Stat. 653, required cooperation between the Secretary of Agriculture and State officials as to recommendations for forest fire prevention and suppression systems.

Section 565, acts June 7, 1924, ch. 348, § 2, 43 Stat. 653; Mar. 3, 1925, ch. 447, 43 Stat. 1127; Apr. 13, 1926, ch. 119, 44 Stat. 242; Sept. 21, 1944, ch. 412, title II, § 207, 58 Stat. 736; July 25, 1947, ch. 327, § 1, 61 Stat. 449, required cooperation between the Secretary of Agriculture and State officials in fire protection of timbered and forest-producing lands.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

§ 565a. Cooperation by Secretary of Agriculture with Territories

REFERENCES IN TEXT

Sections 564 and 565 of this title, referred to in text, were repealed by Pub. L. 95-313, § 13(a)(1), July 1, 1978, 92 Stat. 374.

§ 566. Repealed. Pub. L. 95-313, § 13(a)(1), July 1, 1978, 92 Stat. 374

Section, acts June 7, 1924, ch. 348, § 3, 43 Stat. 653; May 5, 1944, ch. 189, 58 Stat. 216; May 5, 1972, Pub. L. 92-288, § 3(a), 86 Stat. 134, authorized expenditures by the Secretary of Agriculture for study of effects of tax and other laws on forest perpetuation, etc.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

§ 566b. Annual appropriations; limitation on use of other funds for the purposes of sections 564, 565, and 566

REFERENCES IN TEXT

Sections 564, 565, and 566 of this title, referred to in text, were repealed by Pub. L. 95-313, § 13(a)(1), July 1, 1978, 92 Stat. 374.

§ 567. Repealed. Pub. L. 95-313, § 13(a)(1), July 1, 1978, 92 Stat. 374

Section, acts June 7, 1924, ch. 348, § 4, 43 Stat. 654; Oct. 26, 1949, ch. 735, § 2, 63 Stat. 909, required cooperation between the Secretary of Agriculture and the States in procuring, etc., forest-tree seeds and plants.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

§ 568. Cooperation by Secretary of Agriculture with States in establishing, etc., wood lots, shelter belts, windbreaks, etc.; limitation on expenditure; authorization of appropriations

CONTRIBUTIONS BY STATES, ETC.

Section 208 of act Sept. 21, 1944, ch. 412, title II, 58 Stat. 736, provided: "No part of any appropriation which is available for carrying out the Cooperative Farm Forestry Act (16 U.S.C. 568b) [repealed] and sections 4 and 5 of the Clarke-McNary Act (16 U.S.C. 567 [repealed], 568) shall be expended in any State or Territory unless the State or Territory, or local subdivision thereof, or individuals, or associations contribute a sum equal to that to be allotted therefrom by the Government or make contributions other than money deemed by the Secretary to be the value equivalent thereof."

APPROPRIATIONS AVAILABLE FOR 3 YEARS

Section 209 of act Sept. 21, 1944, ch. 412, title II, 58 Stat. 737, provided: "Appropriations for carrying out the Cooperative Farm Forestry Act (16 U.S.C. 568b) [repealed] and sections 4 and 5 of the Clarke-McNary Act (16 U.S.C. 567 [repealed], 568) and Acts supplementary thereto allocated for the production or procurement of nursery stock by any Federal agency, or funds appropriated to any Federal agency for allocation to cooperating States for the production or procurement of nursery stock, shall remain available for expenditure for not more than three fiscal years."

§ 568a. Cooperation by Secretary of Agriculture with Territories and other possessions

REFERENCES IN TEXT

Sections 566 and 567 of this title, referred to in text, were repealed by Pub. L. 95-313, § 13(a)(1), July 1, 1978, 92 Stat. 374.

§ 568c. Repealed. Pub. L. 95-313, § 13(a)(4), July 1, 1978, 92 Stat. 374

Section, acts Aug. 25, 1950, ch. 781, § 1, 64 Stat. 473; May 5, 1972, Pub. L. 92-288, § 1, 86 Stat. 134, required cooperation between the Secretary of Agriculture and State officials in providing technical services to private landowners, etc.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

SHORT TITLE

Section 4 of act Aug. 25, 1950, setting forth the popular name of the act of Aug. 25, 1950 as the "Cooperative Forest Management Act," was repealed by Pub. L. 95-313, § 13(a)(4), July 1, 1978, 92 Stat. 374.

§ 568d. Repealed. Pub. L. 95-313, § 13(a)(4), July 1, 1978, 92 Stat. 374

Section, acts Aug. 25, 1950, ch. 781, § 2, 64 Stat. 473; Sept. 25, 1962, Pub. L. 87-680, 76 Stat. 569; May 5, 1972, Pub. L. 92-288, § 2, 86 Stat. 134, set forth funding requirements for cooperative forest management programs involving private landowners, etc.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

§ 568e. Repealed. Pub. L. 95-313, § 13(a)(5), July 1, 1978, 92 Stat. 374

Section, act May 28, 1956, ch. 327, title IV, § 401, 70 Stat. 207, set forth provisions relating to assistance to States for tree planting and reforestation through the Secretary of Agriculture.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

§ 568g. Omitted

CODIFICATION

Section, acts May 28, 1956, ch. 327, title IV, § 403, as added Aug. 28, 1958, Pub. L. 85-829, 72 Stat. 986, which provided that as used in section 568e of this title, the term "State" included the Territory of Hawaii, was omitted from the Code as obsolete in view of the repeal of section 568e of this title by Pub. L. 95-313, § 13(a)(5), July 1, 1978, 92 Stat. 374.

§ 580k. Grazing advisory boards

REFERENCES IN TEXT

Section 581 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 95-307, § 8(a), June 30, 1978, 92 Stat. 356.

SUBCHAPTER II—INVESTIGATIONS, EXPERIMENTS, AND TESTS AFFECTING REFORESTATION AND FOREST PRODUCTS

§§ 581, 581a. Repealed. Pub. L. 95–307, § 8(a), June 30, 1978, 92 Stat. 356

Section 581, acts May 22, 1928, ch. 678, § 1, 45 Stat. 699; Apr. 24, 1950, ch. 97, § 17(a), 64 Stat. 87, authorized investigations, experiments, and tests affecting reforestation and forest products through cooperation with State and other agencies.

Section 581a, acts May 22, 1928, ch. 678, § 2, 45 Stat. 700; June 15, 1936, ch. 553, 49 Stat. 1515, set forth provisions establishing and authorizing appropriations for specific forest experiment stations.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1978, see section 9 of Pub. L. 95–307, set out as an Effective Date note under section 1641 of this title.

§ 581a–1. Repealed. Pub. L. 95–307, § 4(d), June 30, 1978, 92 Stat. 355

Section, act Aug. 31, 1951, ch. 374, title I, § 101, 65 Stat. 233, authorized receipt of funds on or after Aug. 31, 1951, from States, etc., for establishment or operation of forest research facilities.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 9 of Pub. L. 95–307, set out as an Effective Date note under section 1641 of this title.

§§ 581b to 581i. Repealed. Pub. L. 95–307 § 8(a), June 30, 1978, 92 Stat. 356

Section 581b, act May 22, 1928, ch. 678, § 3, 45 Stat. 701, authorized appropriations for investigations of diseases of forest trees and products.

Section 581c, act May 22, 1928, ch. 678, § 4, 45 Stat. 701, authorized appropriations for investigations of forest insects.

Section 581d, act May 22, 1928, ch. 678, § 5, 45 Stat. 701, authorized appropriations for experiments and investigations of life histories and habits of forest animals, birds, and wildlife.

Section 581e, act May 22, 1928, ch. 678, § 6, 45 Stat. 701, authorized appropriations for investigations of the relationship of weather conditions to forest fires.

Section 581f, act May 22, 1928, ch. 678, § 7, 45 Stat. 701, authorized appropriations for experiments and investigations for development of improved methods of management of forest ranges.

Section 581g, act May 22, 1928, ch. 678, § 8, 45 Stat. 701, authorized appropriations for experiments, investigations, and tests of the physical and chemical properties of forest products.

Section 581h, acts May 22, 1928, ch. 678, § 9, 45 Stat. 702; May 31, 1944, ch. 217, 58 Stat. 265; June 25, 1949, ch. 245, 63 Stat. 271; Aug. 8, 1953, ch. 378; 67 Stat. 489; Sept. 25, 1962, Pub. L. 87–685, 76 Stat. 579; Dec. 14, 1967, Pub. L. 90–193, 81 Stat. 579; Aug. 17, 1974, Pub. L. 93–378, § 3(b), formerly § 2(b), 88 Stat. 476, renumbered Oct. 22, 1976, Pub. L. 94–588, § 2, 90 Stat. 2949, set forth provisions relating to comprehensive survey and analysis of the present and prospective conditions of and requirements for renewable resources.

Section 581i, act May 22, 1928, ch. 678, § 10, 45 Stat. 702, authorized appropriations for economic investigations of forest lands and forest products.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1978, see section 9 of Pub. L. 95–307, set out as an Effective Date note under section 1641 of this title.

§ 582. Puerto Rico; application of forest protection laws

REFERENCES IN TEXT

Sections 564 and 565 of this title, referred to in text, were repealed by Pub. L. 95–313, § 13(a)(1), July 1, 1978, 92 Stat. 374.

SUBCHAPTER III—RESEARCH PROGRAMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1672, 1673 of this title; title 7 sections 390b, 450i, 3261.

§ 582a–2. Authorization of appropriations; other allotments and grants

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 390c.

CHAPTER 3B—SOIL CONSERVATION

Sec.

590q–3. Critical lands resource conservation program in Great Plains area [New].
- (a) Authorization for program.
- (b) Terms of agreements with owners or operators.
- (c) Annual adjustment payments.
- (d) Termination of agreements.
- (e) Preservation of cropland, crop acreage, and allotment history.
- (f) Utilization of Federal and non-Federal offices.
- (g) Program payments.
- (h) Tenants and sharecroppers.
- (i) Rules and regulations.
- (j) Authorization of appropriations; utilization of Commodity Credit Corporation.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 7 sections 624, 1282, 1364, 1385, 1388, 1390, 1391, 1392; title 26 section 126.

§ 590d. Cooperation of governmental agencies; officers and employees, appointment and compensation; expenditures for personal services and supplies

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 590e–1. Limitations on cost of construction, purchase, or improvement of buildings for Soil Conservation Service

REPEALED

Pub. L. 95–448, title II, § 201, Oct. 11, 1978, 92 Stat. 1085.

Pub. L. 95–97, title II, § 201, Aug. 12, 1977, 91 Stat. 821.

§ 590e–2. Employment of local engineers

REPEALED

Pub. L. 95–448, title II, § 201, Oct. 11, 1978, 92 Stat. 1086.

Pub. L. 95-97, title II, § 201, Aug. 12, 1977, 91 Stat. 822.

§ 590h. Payments and grants of aid

[*See main edition for text of* (a)]

(b) Conservation and environmental assistance

The Secretary is authorized to carry out the policy and purposes specified in section 590g(a) of this title by providing financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures. Eligibility for financial assistance shall be based upon the existence of a conservation or environmental problem which reduces the productive capacity of the Nation's land and water resources or causes degradation of environmental quality.

The amount of financial assistance to be provided shall be that portion of the cost of installing conservation and environmental enhancement measures which the Secretary determines is necessary. In determining the level of payment, consideration will be given to (A) the amount of expected conservation or environmental benefit accruing to society, (B) the total cost of carrying out the needed measures, (C) the degree to which appropriate conservation or pollution abatement practices will be applied in the absence of financial assistance, and (D) in order to avoid duplication of assistance, the degree to which the agricultural producer benefits from other public programs for conservation and environmental enhancement.

The Secretary, in formulating the national program, shall take into consideration (A) the need to control erosion and sedimentation from agricultural land and to conserve the water resources on such land, (B) the need to control pollution from animal wastes, (C) the need to facilitate sound resources management systems through soil and water conservation, (D) the need to encourage voluntary compliance by agricultural producers with Federal and State requirements to solve point and nonpoint sources of pollution, (E) national priorities reflected in the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other congressional and administrative actions, (F) the degree to which the measures contribute to the national objective of assuring a continuous supply of food and fiber necessary for the maintenance of a strong and healthy people and economy, and (G) the type of conservation measures needed to improve water quality in rural America.

In carrying out the provisions of this section in the States of the Union, except Alaska, the Secretary is directed to utilize the services of local and State committees selected as hereinafter provided. The Secretary shall designate local administrative areas as units for administration of programs under this section. No such local area shall include more than one county or parts of different counties. Farmers within any such local administrative area, and participating or cooperating in programs administered within such area, shall elect annually from among their number a local committee of not more than three members for such area. The members of the local committees shall, in a county convention, nominate and elect a county committee which shall consist of three members who are farmers in the county. At the first county convention held on or after January 1, 1965, one member of the county committee shall be elected for one year; one member shall be elected for two years; and one member shall be elected for three years. Thereafter, each member of a county committee shall be elected for a term of three years. No member of the county committee shall be elected for more than three consecutive terms (exclusive of any term which began prior to January 1, 1965). The local committee shall select a secretary and may utilize the county agricultural extension agent for such purpose. The county committee shall select a secretary who may be the county agricultural extension agent. If such county agricultural extension agent shall not have been elected secretary of such committee, he shall be ex officio a member of the county committee. The county agricultural extension agent shall not have the power to vote. In any county in which there is only one local committee the local committee shall also be the county committee. In each State there shall be a State committee for the State composed of not less than three or more than five farmers who are legal residents of the State and who are appointed by the Secretary. The State director of the Agricultural Extension Service shall be ex officio a member of such State committee. The ex officio members of the county and State committees shall be in addition to the number of members of such committees hereinbefore specified. The Secretary shall make such regulations as are necessary relating to the selection and exercise of the functions of the respective committees, and to the administration, through such committees, of such programs. In carrying out the provisions of this section, the Secretary shall, as far as practicable, protect the interests of tenants and sharecroppers; is authorized to utilize the agricultural extension service and other approved agencies; shall accord such recognition and encouragement to producer-owned and producer-controlled cooperative associations as will be in harmony with the policy toward cooperative associations set forth in existing Acts of Congress and as will tend to promote efficient methods of marketing and distribution; shall not have power to acquire any land or any right or interest therein; shall, in every practicable manner, protect the interests of small producers; and shall in every practical way encourage and provide for soil-conserving and soil-rebuilding practices rather than the growing of soil-depleting crops. Rules and regulations governing payments or grants under this subsection shall be as simple and direct as possible, and, wherever practicable, they shall be classified on two bases: (a) Soil-depleting crops and practices, (b) soil-building crops and practices.

Notwithstanding any other provision of law, in making available conservation materials consisting of seeds, seed inoculants, fertilizers, liming and other soil-conditioning materials, trees, or plants, or in making available soil-conserving and soil-building services or pollution prevention or abatement aids, to agricultural producers under this subsection, the Secretary

may make payments, in advance of determination of performance by the producers, to persons who will purchase orders covering approved conservation materials or covering soil-conserving or soil-building services or pollution prevention or abatement aids, furnished to producers, or who render services to the Secretary in delivering to producers approved conservation materials, for the carrying out, by the producers, of soil-building or soil-conserving practices or pollution prevention or abatement practices approved by the Secretary. The price at which purchase orders for any conservation materials or services are filled may be limited to a fair price fixed in accordance with regulations prescribed by the Secretary.

Appropriations are authorized for the purchase in advance of the program year for which the appropriation is made of seeds, fertilizers, lime, trees, or any other farming materials or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out farming practices approved by the Secretary in programs under this chapter; for the reimbursement of any Federal, State, or local government agency for fertilizers, seeds, lime, trees, or other farming materials, or any soil-terracing services, furnished by such agency; and for the payment of all expenses necessary in making such grants, including all or part of the costs incident to the delivery thereof.

In carrying out the purposes of subsection (a) of section 590g of this title, the Secretary may enter into agreements with agricultural producers for periods not to exceed ten years, on such terms and conditions as the Secretary deems desirable, creating obligations in advance of appropriations not to exceed such amounts as may be specified in annual appropriation Acts. Such agreements (i) shall be based on conservation plans approved by the soil and water conservation district or districts in which the lands described in the agreements are situated, and (ii) may be modified or terminated by mutual consent if the Secretary determines such action would be in the public interest. The Secretary also may terminate agreements if he determines such action to be in the national interest and provides public notice in ample time to give producers a reasonable opportunity to make arrangements for appropriate changes in the use of their land.

[*See main edition for text of* (c) *and* (d)]

(e) Distribution of payments among landlords, tenants, and sharecroppers

Payments made by the Secretary under subsection (b) of this section to agricultural producers shall be divided among landlords, tenants, and sharecroppers in proportion to the extent such landlords, tenants, and sharecroppers contribute to the cost of carrying out the conservation or environmental enhancement measures. The maximum payment which may be made to any person shall be determined by the Secretary.

Persons who carry out farming operations as tenants or sharecroppers on cropland owned by the United States Government and who comply with the terms and conditions of the conservation program, formulated pursuant to this section, and sections 590g, 590i, and 590j to 590q of this title, shall be entitled to apply for and receive payments, or to retain payments heretofore made, for their participation in said program to the same extent as other producers. Persons who carry out conservation practices on federally owned noncropland which directly conserve or benefit nearby or adjoining privately owned lands of such persons and who maintain and use such Federal land under agreement with the Federal agency having jurisdiction thereof and who comply with the terms and conditions of the agricultural conservation program formulated pursuant to this section, and sections 590g, 590i, and 590j to 590q of this title, shall be entitled to apply for and receive payments under such program to the same extent as other producers.

[*See main edition for text of* (f) *and* (g)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1501(a), 91 Stat. 1019.)

REFERENCES IN TEXT

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

AMENDMENTS

1977—Subsec. (b). Pub. L. 95-113, § 1501(a)(1), (2), specified that financial assistance be provided to agricultural producers for carrying out enduring conservation and environmental enhancement measures, that eligibility for financial assistance be determined by the existence of conservation or environmental problems that reduce the productive capacity of the land and water or that cause environmental degradation, that financial assistance be a portion of the cost of the installation of conservation and environmental enhancement measures, that the Secretary of Agriculture be given discretion to set the level of payment based on a number of considerations relating to the level and distribution of benefits and costs accruing from the conservation problem and the applied remedy including the level of expected benefits to society, the total cost of the conservation practice, the degree to which the farmer benefits from other conservation programs, and the degree to which conservation would be applied in the absence of financial assistance, and that the Secretary be required to consider national and local needs and priorities in developing a national cost-share assistance program.

Subsec. (e). Pub. L. 95-113, § 1501(a)(3), struck out the first three pars. which related to allotment and production adjustment activities and for provisions making small cost-share payments, and substituted a new par. authorizing the Secretary to establish a payment limitation. The first three pars. were deemed by the codifiers to constitute the first par., the flush sentence at the end of the first par., and the second par. to reflect the probable intent of Congress. See pp. 192, 193, 400, 401 of Senate Report 95-180.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 590g, 590h-4, 590i, 590l, 590m, 590n, 590o, 590p, 590q-3, 1507, 1508 of

this title; title 5 sections 3502, 5307, 5334, 5595, 6312, 8331, 8332, 8701, 8901; title 7 sections 1301, 1314c, 1330, 1388, 1391, 1392, 1441, 1444, 1444b, 1838; title 12 section 1150a; title 40 app. section 203.

§ 590o. Authorization of appropriations; distribution of appropriated funds

To enable the Secretary of Agriculture to carry out the purposes of sections 590g and 590h of this title there is authorized to be appropriated for any fiscal year not exceeding $500,000,000. The amount appropriated shall be available until expended. A specified amount or percentage of the appropriation shall be designated for long-term agreements based on farm and ranch conservation plans approved by local conservation districts, where such districts are organized. The Secretary shall distribute the funds available for financial assistance among the several States in accordance with their conservation needs, as determined by the Secretary.

Notwithstanding the foregoing provisions of this section and the provisions of section 590g(g) of this title, programs of soil-building practices, soil- and water-conserving practices, and agriculture-related pollution prevention and abatement practices shall be based on a distribution of the funds available for payments and grants among the several States in accordance with their conservation needs, as determinated by the Secretary, except that the proportion allocated to any State shall not be reduced by more than 15 per centum from the distribution of such funds for the next preceding program year. In carrying out such programs, the Secretary shall give particular consideration to conservation problems on farm lands diverted from crops under acreage allotment programs and to the maintenance of a proper balance between soil conserving and soil depleting crops on the farm.

(As amended Sept. 29, 1977, Pub. L. 95–113, title XV, § 1501(b), 91 Stat. 1020.)

Amendments

1977—Pub. L. 95–113 added provisions directing that appropriated funds be available until expended, that funds be made available for long-term agreements, and that the Secretary distribute the available funds among the several States in accordance with their conservation needs as determined by the Secretary and struck out provisions setting out a formula for determining the proper allocation of funds as between the various commodities and making reference to programs of soil-building practices, soil-conserving and water-conserving practices, and agricultural-related pollution prevention and abatement practices.

Effective Date of 1977 Amendment

Amendment by Pub. L. 95–113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

§ 590p. Limitation on obligations incurred; Great Plains conservation program

Section Referred to in Other Sections

This section is referred to in sections 590h, 590h–4, 590n, 590q–3, 1501 of this title; title 7 sections 1330, 1388, 1391, 1392; title 12 section 1150a; title 26 section 126.

§ 590q. Coverage; "State" defined; short title

Section Referred to in Other Sections

This section is referred to in sections 590h, 590h–4, 590n of this title; title 7 sections 1330, 1388, 1391, 1392; title 12 section 1150a.

§ 590q–3. Critical lands resource conservation program in Great Plains area

Notwithstanding any other provision of law—

(a) Authorization for program

The Secretary of Agriculture is authorized to formulate and carry out a program with owners and operators of land in the Great Plains area as described in section 590p(b) of this title to reduce runoff, soil and water erosion, and otherwise to promote the conservation of soil and water resources in such area through the conversion of cropland from soil depleting uses to conserving uses including the production of soil conserving cover crops.

(b) Terms of agreements with owners or operators

To effectuate the purposes of the program, the Secretary may enter into an agreement for a two-year period with an owner or operator as described in subsection (a) of this section whereby the owner or operator shall agree to devote to a soil conserving cover crop a specifically designated acreage of cropland on the farm up to 50 per centum of the acreage which had been planted to any soil depleting crop or crops in any of the two years preceding the date of the agreement. The agreement shall be renewable for annual periods thereafter subject to the mutual agreement of the owner or operator and the Secretary. In such agreement, the owner or operator shall agree (1) to plant a legume, or if not adapted to such area, an annual, biennial, or a perennial cover crop, as specified in the agreement; (2) to divert from production such portion of one or more crops designated by the Secretary as the Secretary determines necessary to effectuate the purpose of the program; (3) not to harvest any crop from or graze the designated acreage during the agreement period, unless the Secretary determines that it is necessary to permit grazing or harvesting in order to alleviate damage, hardship, or suffering caused by severe drought, flood, or other natural disaster, and consents to such grazing or harvesting subject to an appropriate reduction in the rate of payment; (4) to give adequate assurance, as specified by the Secretary, that the land was not acquired for the purpose of placing it in the program: *Provided*, That the foregoing provision shall not prohibit the continuation of an agreement by a new owner if an agreement has once been entered into under this section nor prevent an owner or operator from placing a farm in the program if the farm was acquired by the owner to replace an eligible farm from which he was displaced because of its acquisition by any Federal, State, or other agency having the right of eminent domain; (5) to forfeit all rights to further payments under the agreement and refund to the United States all payments received thereunder upon his violation of the agreement at any stage during the time he has control of the land if the Secretary determines

that such violation is of such a nature as to warrant termination of the agreement, or to make refunds or accept such payment adjustments as the Secretary may deem appropriate if the Secretary determines that the violation by the owner or operator does not warrant termination of the agreement; (6) upon transfer of his right and interest in the farm, during the agreement period, to forfeit all rights to further payments under the agreement and refund to the United States all payments received thereunder unless the transferee of any such land agrees with the Secretary to assume all obligations of the agreement; (7) not to adopt any practice specified by the Secretary in the agreement as a practice which would tend to defeat the purposes of the agreement; and (8) to such additional provisions as the Secretary determines are desirable to effectuate the purposes of the program or to facilitate the practical administration of the program, including such measures as the Secretary may deem appropriate to keep the designated acreage from eroding and free from weeds and rodents in accordance with good conservation systems.

(c) Annual adjustment payments

In consideration for such agreement, the Secretary shall make annual adjustment payments to the owner or operator for the period of the agreement at such rate or rates not in excess of $30 per acre as the Secretary determines to be fair and reasonable. The Secretary may use an advertising and bid procedure in determining the lands in any area to be covered by agreements and the payment rate therefor. The Secretary and the owner or operator may agree that the annual adjustment payments for the agreement period shall be made either upon approval of the agreement or in such installments as they may agree to be desirable: *Provided*, That for each year any annual adjustment payment is made in advance of performance, the annual adjustment payment shall be reduced by 5 per centum.

(d) Termination of agreements

The Secretary may terminate any agreement under the program, by mutual agreement with the owner or operator, if the Secretary determines that such termination would be in the public interest, and may agree with the owner or operator to such modification of agreements as the Secretary may determine to be desirable to carry out the purposes of the program or facilitate its administration.

(e) Preservation of cropland, crop acreage, and allotment history

The Secretary may, to the extent the Secretary deems it desirable, provide by appropriate regulations for preservation of cropland, crop acreage, and allotment history applicable to acreage diverted from the production of crops to establish vegetative cover for the purpose of any Federal program under which such history is used as a basis for an allotment or other limitation or for participation in such program.

(f) Utilization of Federal and non-Federal offices

In carrying out the program, the Secretary shall utilize the services of local, county, and State committees established under section 590h of this title and the technical services of the Soil Conservation Service and soil and water conservation districts.

(g) Program payments

In case any producer who is entitled to any payment under the program dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provisions of law, be made as the Secretary may determine to be fair and reasonable.

(h) Tenants and sharecroppers

The Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing, on a fair and equitable basis, in payments under the program.

(i) Rules and regulations

The Secretary shall prescribe such regulations as the Secretary determines necessary to carry out the provisions of this section.

(j) Authorization of appropriations; utilization of Commodity Credit Corporation

There are authorized to be appropriated for the period beginning October 1, 1977, and ending September 30, 1981, such sums as may be necessary to carry out the program provided for in this section. The Secretary is authorized to utilize the facilities, services, and authorities of the Commodity Credit Corporation in discharging the Secretary's functions and responsibilities under the program, including payment of costs of administration: *Provided*, That the Commodity Credit Corporation shall not make any expenditures for such purposes unless the Corporation has received funds to cover such expenditures from appropriations made to carry out this section.

(Pub. L. 95–113, title XV, § 1511, Sept. 29, 1977, 91 Stat. 1022.)

CODIFICATION

Section was enacted as part of Pub. L. 95–113, known as the Food and Agriculture Act of 1977, and not as part of act Apr. 27, 1935, ch. 85, 49 Stat. 163, as amended, known as the Soil Conservation and Domestic Allotment Act, which comprises this chapter.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 1901 of Pub. L. 95–113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

CHAPTER 4—PROTECTION OF TIMBER, AND DEPREDATIONS

§§ 594–1 to 594–5. Repealed. Pub. L. 95–313 § 13(a)(3), July 1, 1978, 92 Stat. 374

Section 594–1, act June 25, 1947, ch. 141, § 1, 61 Stat. 177, set forth the policy of the Federal government respecting protection of all forest lands from insects and diseases.

Section 594–2, act June 25, 1947, ch. 141, § 2, 61 Stat. 177, related to the conduct of surveys by the Secretary of Agriculture to detect infestation by forest insect pests and tree diseases.

Section 594–3, act June 25, 1947, ch. 141, § 3, 61 Stat. 177, related to the allocation of funds for pest and plant disease control.

Section 594-4, act June 25, 1947, ch. 141, § 4, 61 Stat. 177, related to contributions for insect or disease control carried out on non-Federally owned forest land.

Section 594-5, acts June 25, 1947, ch. 141, § 5, 61 Stat. 177; June 20, 1975, Pub. L. 94-40, 89 Stat. 224, set forth funding requirements for the Federal program.

EFFECTIVE DATE OF REPEAL

Sections repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

SHORT TITLE

Act June 25, 1947, ch. 141, § 7, 61 Stat. 177, providing that sections 594-1 to 594-5 of this title be known as the "Forest Pest Control Act", was repealed by Pub. L. 95-313, § 13(a)(3), July 1, 1978, 92 Stat. 374.

CONSTRUCTION

Act June 25, 1947, ch. 141, § 6, 61 Stat. 177, providing that sections 594-1 to 594-5 of this title not be construed as limiting or repealing existing legislation, was repealed by Pub. L. 95-313, § 13(a)(3), July 1, 1978, 92 Stat. 374.

PLAN FOR CONTROL OF DUTCH ELM DISEASE

Pub. L. 94-588, § 20, Oct. 22, 1976, 90 Stat. 2963, provided that the Secretary of Agriculture, in consultation with officials of both the States and political subdivisions thereof, conduct a study of the incidence of Dutch elm disease and evaluate methods for controlling the spread of such disease and submit a report on the results of such study to the President and the Congress on or before Mar. 1, 1977.

§ 594a. Repealed. Pub. L. 95-313, § 13(a)(2), July 1, 1978, 92 Stat. 374

Section, act Apr. 26, 1940, ch. 159, 54 Stat. 168, set forth provisions relating to white-pine blister rust control by the Secretary of Agriculture, and local authorities.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

CHAPTER 5A—PROTECTION AND CONSERVATION OF WILDLIFE

SUBCHAPTER I—GAME, FUR-BEARING ANIMALS, AND FISH

§ 661. Declaration of purpose; cooperation of agencies; surveys and investigations; donations

ACT REFERRED TO IN OTHER SECTIONS

The Fish and Wildlife Coordination Act [16 U.S.C. 661 to 666c] is referred to in 666e, 666g, 823a, 1534, 2705 of this title; title 29 section 994; title 30 section 1292; title 33 section 1416; title 43 sections 421h, 422h.

§ 666g. Classification of lands; industrial leases; moneys subject to section 715s of this title; administration; jurisdiction of Federal agencies

All of the lands transferred to the Secretary of the Interior, pursuant to the provisions of section 666f of this title and this section, first shall be classified by him with a view to determining, in cooperation with Federal, State, and public or private agencies and organizations, the most beneficial use that may be made thereof to carry out the purposes of section 666f of this title and this section, including the development of wildlife conservation, agricultural, recreational, industrial, and related purposes. Such lands as have been or may hereafter be determined to be chiefly valuable for industrial purposes shall be leased for such purposes at such time and under such terms and conditions as the Secretary of the Interior shall prescribe. All moneys received or collected in connection with such leases shall be subject to the provisions of section 715s of this title. Except to the extent otherwise provided in section 666f of this title and this section, all lands herein transferred shall be administered by the Secretary of the Interior through the Fish and Wildlife Service in accordance with the provisions of sections 661 to 666c of this title, and Acts supplementary thereto and amendatory thereof for the conservation of wildlife, and for the development of the agricultural, recreational, industrial, and related purposes specified in section 666f of this title and this section: *Provided*, That no jurisdiction shall be exercised by the Secretary of the Interior over that portion of such lands and the improvements thereon which are now utilized by the Department of the Army directly or indirectly until such time as it is determined by the Secretary of the Army that utilization of such portions of such lands and the improvements thereon directly or indirectly by the Department of the Army is no longer required: *Provided further*, That, subsequent to the determination referred to in the preceding proviso, the lands and improvements mentioned therein shall be administered by the Secretary of the Interior, and any lease or other disposition thereof shall be made subject to such terms, conditions, restrictions, and reservations imposed by the Secretary of the Army as will, in the opinion of the Secretary of the Army, be adequate to assure the continued availability for war production purposes of such lands and improvements.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 8, 92 Stat. 3114.)

REFERENCES IN TEXT

Section 715s of this title, referred to in text, in the original read "the Act of June 15, 1935, as amended (49 Stat. 383; 16 U.S.C. 715s)".

AMENDMENTS

1978—Pub. L. 95-616 substituted in second sentence "terms and conditions as the Secretary of the Interior shall prescribe" for "terms and conditions as are consistent with the general purposes of section 2 of the Surplus Property Act of 1944, as amended, and with the purposes of section 666f of this title and this section" and made moneys received or collected in connection with the leases to be subject to section 715s of this title.

SUBCHAPTER II—PROTECTION OF BALD AND GOLDEN EAGLES

§ 668a. Taking and using of the bald and golden eagle for scientific, exhibition and religious purposes

Whenever, after investigation, the Secretary of the Interior shall determine that it is compatible with the preservation of the bald eagle or the golden eagle to permit the taking, possession, and transportation of specimens thereof for the scientific or exhibition purposes of public museums, scientific societies, and zoolog-

ical parks, or for the religious purposes of Indian tribes, or that it is necessary to permit the taking of such eagles for the protection of wildlife or of agricultural or other interests in any particular locality, he may authorize the taking of such eagles pursuant to regulations which he is hereby authorized to prescribe: *Provided*, That on request of the Governor of any State, the Secretary of the Interior shall authorize the taking of golden eagles for the purpose of seasonally protecting domesticated flocks and herds in such State, in accordance with regulations established under the provisions of this section, in such part or parts of such State and for such periods as the Secretary determines to be necessary to protect such interests: *Provided further*, That bald eagles may not be taken for any purpose unless, prior to such taking, a permit to do so is procured from the Secretary of the Interior: *Provided further*, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking, possession, and transportation of golden eagles for the purposes of falconry, except that only golden eagles which would be taken because of depredations on livestock or wildlife may be taken for purposes of falconry: *Provided further*, That the Secretary of the Interior, pursuant to such regulations as he may prescribe, may permit the taking of golden eagle nests which interfere with resource development or recovery operations.

(As amended Nov. 8, 1979, Pub. L. 95-616, § 9, 92 Stat. 3114.)

AMENDMENTS

1978—Pub. L. 95-616 authorized the taking of golden eagle nests which interfere with resource development or recovery operations.

SUBCHAPTER III—ENDANGERED SPECIES OF FISH AND WILDLIFE

§ 668dd. National Wildlife Refuge System

[See main edition for text of (a) to (c)]

(d) Use of areas; administration of migratory bird sanctuaries as game taking areas; rights of way, easements, and reservations; payment of fair market value

(1) The Secretary is authorized, under such regulations as he may prescribe, to—

(A) permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: *Provided*, That not to exceed 40 per centum at any one time of any area that has been, or hereafter may be acquired, reserved, or set apart as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the species; and

[See main edition for text of (B) and (2); (e)]

(f) Enforcement provision; arrests, searches, and seizures; custody of property; forfeitures; disposition

Any person authorized by the Secretary of the Interior to enforce the provisions of this Act or any regulations issued thereunder, may, without a warrant, arrest any person violating this Act or regulations in his presence or view, and may execute any warrant or other process issued by an officer or court of competence jurisdiction to enforce the provisions of this Act or regulations, and may with a search warrant search for and seize any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or nest or egg thereof, taken or possessed in violation of this Act or the regulations issued thereunder. Any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or egg thereof seized with or without a search warrant shall be held by such person or by a United States marshal, and upon conviction, shall be forfeited to the United States and disposed of by the Secretary, in accordance with law.

[See main edition for text of (g) to (i)]

(As amended Pub. L. 95-616, §§ 3(f), 6, Nov. 8, 1978, 92 Stat. 3111, 3114.)

AMENDMENTS

1978—Subsec. (d)(1)(A). Pub. L. 95-616, § 6, authorized the Secretary to find that the taking of any species of migratory birds in more than 40 percent of the area would be beneficial to the species.

Subsec. (f). Pub. L. 95-616, § 3(f), substituted "disposed of by the Secretary, in accordance with law" for "disposed of by the court".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 459j-4 of this title; title 43 section 1714.

CHAPTER 5B—WILDLIFE RESTORATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1225 of this title; title 25 section 1709.

CHAPTER 5C—CONSERVATION PROGRAMS ON GOVERNMENT LANDS

SUBCHAPTER I—CONSERVATION PROGRAMS ON MILITARY RESERVATIONS

§ 670a. Wildlife, fish, and game conservation; cooperative plan between Secretary of Defense, Secretary of the Interior, and State agencies; permits; fees

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-420, § 1, Oct. 5, 1978, 92 Stat. 921, provided: "That this Act [amending sections 670f and 670o of this title] may be cited as the 'Sikes Act Amendments of 1978'."

SHORT TITLE

Pub. L. 86-797, Sept. 15, 1960, 74 Stat. 1052, is popularly known as the "Sikes Act".

§ 670f. Appropriations and expenditures

(a) Expenditures exclusively under cooperative plans

The Secretary of Defense shall expend such funds as may be collected in accordance with the cooperative plans agreed to under sections 670a and 670b of this title and for no other purpose.

(b) Authorization of appropriations to Secretary of Defense

There are authorized to be appropriated to the Secretary of Defense not to exceed $1,500,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to carry out this subchapter, including the enhancement of fish and wildlife habitat and the development of public recreation and other facilities. The Secretary of Defense shall, to the greatest extent practicable, enter into agreements to utilize the services, personnel, equipment, and facilities, with or without reimbursement, of the Secretary of the Interior in carrying out the provisions of this section.

(c) Authorization of appropriations to Secretary of the Interior

There are authorized to be appropriated to the Secretary of the Interior not to exceed $3,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to carry out such functions and responsibilities as the Secretary may have under cooperative plans to which such Secretary is a party under this section, including those for the enhancement of fish and wildlife habitat and the development of public recreation and other facilities.

(As amended Pub. L. 95-420, § 2, Oct. 5, 1978, 92 Stat. 921.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-420 substituted provisions authorizing the appropriation of not to exceed $1,500,000 for each of the fiscal years ending Sept. 30, 1979, 1980 and 1981 for provisions authorizing the appropriation of not to exceed $500,000 per fiscal year for fiscal years beginning July 1, 1969, 1970, and 1971 and not to exceed $1,500,000 for fiscal year beginning July 1, 1972 and for each of the next five fiscal years thereafter and struck out provisions relating to the authorization of appropriations to the Secretary of the Interior not to exceed $2,000,000 for the fiscal year beginning July 1, 1973 and for each of the next four fiscal years thereafter to enable the Secretary to carry out the functions and responsibilities under cooperative plans, sums appropriated under this subchapter to be available until expended.

Subsec. (c). Pub. L. 95-420 added subsec. (c).

SUBCHAPTER II—CONSERVATION PROGRAMS ON PUBLIC LANDS

§§ 670g, 670h

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 670k. Definitions

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 670o. Authorization of appropriations

(a) There are authorized to be appropriated the sum of $10,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to enable the Secretary of the Interior to carry out his functions and responsibilities under this subchapter, including data collection, research, planning, and conservation and rehabilitation programs on public lands. Such funds shall be in addition to those authorized for wildlife, range, soil, and water management pursuant to section 1748 of title 43, or other provisions of law.

(b) There are authorized to be appropriated the sum of $12,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981, to enable the Secretary of Agriculture to carry out his functions and responsibilities under this subchapter. Such funds shall be in addition to those provided under other provisions of law. In requesting funds under this subsection the Secretary shall take into account fish and wildlife program needs, including those for projects, identified in the State comprehensive plans as contained in the program developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended (16 U.S.C. 1601-1610).

(As amended Pub. L. 95-420, § 3, Oct. 5, 1978, 92 Stat. 921.)

REFERENCES IN TEXT

The Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, referred to in subsec. (b), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-420 substituted provisions authorizing the appropriation of $10,000,000 for each of the fiscal years ending Sept. 30, 1979, 1980, and 1981 to enable the Secretary to carry out his functions, including data collection, research, planning, and conservation and rehabilitation programs, such funds to be in addition to those authorized for wildlife, range, soil and water management pursuant to section 1748 of title 43, for provisions authorizing the appropriation of $10,000,000 for the fiscal year ending June 30, 1974, and for each of the next four fiscal years to enable the Department of Interior to carry out its functions.

Subsec. (b). Pub. L. 95-420 substituted provisions authorizing the appropriation of $12,000,000 for fiscal years ending Sept. 30, 1979, 1980, and 1981 to enable the Secretary of Agriculture to carry out his functions, such funds to be in addition to those otherwise provided, and provisions relating to fish and wildlife program needs including those identified in State plans developed pursuant to the Forest and Rangeland Renewable Resources Planning Act of 1974, for provisions authorizing the appropriation of $10,000,000 for the fiscal year ending June 30, 1974, and for each of the next four fiscal years to enable the Department of Agriculture to carry out its functions.

CHAPTER 6—GAME AND BIRD PRESERVES: PROTECTION

Sec.
695j-1. Conformity of contracts with Federal law through negotiation of amendments [New].

§ 688. Repealed. Pub. L. 95-625, title III, § 314(g), Nov. 10, 1978, 92 Stat. 3483

Section, acts July 3, 1926, ch. 744, § 6, 44 Stat. 821; June 25, 1948, ch. 645, § 13, 62 Stat. 861, related to designation of Sequoia National Game Refuge, now made available for purposes of management of Sequoia National Park as provided for in section 45f(b)(2) of this title.

EFFECTIVE DATE OF REPEAL

Section 314(g) of Pub. L. 95-625 provided in part for repeal of this section and section 45a-3 of this title effective upon the transfer of abolished Sequoia National Game Refuge by the Secretary of Agriculture to the administrative jurisdiction of the Secretary under section 45f(b)(2) of this title.

WILD ANIMAL PROTECTION

Section 314(g) of Pub. L. 95-625 provided in part that repeal of this section should not be construed to prohibit or prevent the Secretary from exercising any authority applicable to the national parks respecting protection of birds, game, or other wild animals.

§ 690e. Enforcement of laws and regulations; warrants and processes; jurisdiction of courts; forfeiture of property captured, injured, killed or removed

[*See main edition for text of* (a)]

(b) All birds or animals, or parts thereof, captured, injured, or killed, and all grass and other natural growths, and nests and eggs of birds removed contrary to the provisions of sections 690 to 690i of this title or any regulation made pursuant thereto, shall, when found by such employee or by any marshal or deputy marshal, be summarily seized by him, and upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, or removed contrary to the provisions of sections 690 to 690i of this title or of any regulation made pursuant thereto, shall be forfeited to the United States and disposed of as directed by the Secretary of the Interior, in accordance with law.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 3(g), Nov. 8, 1978, 92 Stat. 3111.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-616 substituted provision for disposition of forfeited property "as directed by the Secretary of the Interior, in accordance with law" for prior provision for disposition "as directed by the court having jurisdiction".

§ 695d. Development of water supplies for waterfowl management in California; reauthorization of Central Valley Project

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 695g, 695i, 695j, 695j-1 of this title.

§ 695e. Construction, operation, and maintenance of water supply development works

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 695f, 695g, 695h, 695i, 695j, 695j-1 of this title.

§ 695f. Construction, etc., authorized by section 695e as not reimbursable or returnable under reclamation laws

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 695g, 695i, 695j, 695j-1 of this title.

§ 695g. Authorization of appropriations

There are hereby authorized to be appropriated such funds, not to exceed $400,000, for construction of necessary works to supply water for State and federally owned and operated waterfowl management areas in the San Joaquin Valley to carry out the purposes of sections 695d to 695j-1 of this title.

(Aug. 27, 1954, ch. 1012, § 4, 68 Stat. 879.)

CODIFICATION

Section is set out in this Supplement to include the reference to section 695j-1 of this title necessitated by the addition of section 8 to act Aug. 27, 1954, ch. 1012, by Pub. L. 95-616, § 10(b), Nov. 8, 1978, 92 Stat. 3115, which is classified to section 695j-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 695i, 695j, 695j-1 of this title.

§ 695h. Ownership by State of California of works constructed

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 695g, 695i, 695j, 695j-1 of this title.

§ 695i. Authorization of Secretary of the Interior to contract for water delivery; nonreimbursable or nonreturnable basis of delivery

The Secretary of the Interior is authorized to contract for the delivery of water to public organizations or agencies for use within the boundaries of such organizations or agencies for waterfowl purposes in the Grasslands area of the San Joaquin Valley. If and when available, such water shall be delivered from the Central Valley project to the contracting entity, and the cost of furnishing the water shall not be reimbursable or returnable under the Federal reclamation laws: *Provided*, That, in order for the delivery of such water to continue on a nonreimbursable or nonreturnable basis—

(a) Amount and time of water delivery to Service

the public organizations or agencies contracting with the Secretary of the Interior,

excluding the State of California, shall deliver annually to the United States Fish and Wildlife Service (hereinafter referred to as the "Service"), at no cost to the United States, not less than three thousand five hundred acre-feet of water during the period October 1 through November 30, inclusive, and not less than four thousand acre-feet of water during the period May 1 through September 30, inclusive, if available: *Provided*, That such amounts of water and times of delivery may be changed upon approval of the Secretary of the Interior;

(b) Construction, operation, and maintenance of water conveyance facilities

the public organizations or agencies, excluding the State of California, shall construct, operate, and maintain any water conveyance facilities necessary to deliver the water referred to in subsection (a) of this section to a point or points within the boundaries of such public organization or agency as designated by the Service, or to such points as may be mutually agreed upon by the public organization or agency and the Service. The Service shall be responsible for delivering the water from such point or points to appropriate locations within lands under its jurisdiction;

(c) Reversionary rights of Secretary

any contract entered into by the Secretary of the Interior and any public organization or agency pursuant to sections 695d to 695j-1 this title shall provide that in the event the public organization or agency for any reason fails to carry out the obligations imposed upon it by said contract or by sections 695d to 695j-1 this title, the rights of use of any facilities referred to in subsection (b) of this section, and the rights to all water contracted for by the organization or agency pursuant sections 695d to 695j-1 this title shall revert to the Secretary of the Interior for migratory waterfowl purposes in accordance with the laws of the State of California; and

(d) Restrictive covenants

in accordance with existing or future contracts, the use of lands located within the boundaries of the public organizations or agencies shall be restricted by covenants requiring that such lands be used only for the purpose of waterfowl and wildlife habitat conservation or other uses as may be mutually agreed upon by the public organizations or agencies and the Service.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 10(a), 92 Stat. 3115.)

REFERENCES IN TEXT

The Federal reclamation laws, referred to in introductory text, include the act of June 17, 1902, ch. 1093, 32 Stat. 388, popularly known as the Reclamation Act, and Acts amendatory thereof and supplementary thereto, classified generally to chapter 12 (§ 371 et seq.) of Title 43, Public Lands. For complete classification of act June 17, 1902, to the Code, see Short Title note set out under section 371 of Title 43 and Tables.

AMENDMENTS

1978—Pub. L. 95-616 added second sentence, including pars. (a) to (d) and struck out prior second sentence reading "If and when available, such water shall be delivered from the Central Valley project at a charge not to exceed the prevailing charge for class 2 water."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 695g, 695j, 695j-1 of this title.

§ 695j. Conformity of water use with California laws; construction of sections 695d to 695j-1

The use of all water furnished by the Secretary of the Interior under sections 695e and 695i of this title shall be subject to and not inconsistent with the laws of the State of California relating to priorities of deliveries and use of water. Nothing contained in sections 695d to 695j-1 of this title shall be construed as an allocation of water.

(Aug. 27, 1954, ch. 1012, § 7, 68 Stat. 880.)

CODIFICATION

Section is set out in this Supplement to include the reference to section 695j-1 of this title necessitated by the addition of section 8 to act Aug. 27, 1954, ch. 1012, by Pub. L. 95-616, § 10(b), Nov. 8, 1978, 92 Stat. 3115, which is classified to section 695j-1 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 695i, 695g, 695j-1 of this title.

§ 695j-1. Conformity of contracts with Federal law through negotiation of amendments

The Secretary is hereby authorized to negotiate amendments to existing contracts to conform said contracts to the provisions of sections 695d to 695j-1 of this title.

(Aug. 27, 1954, ch. 1012, § 8, as added Nov. 8, 1978, Pub. L. 95-616, § 10(b), 92 Stat. 3115.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 695g, 695i, 695j of this title.

§ 698m. Authorization of appropriations for Big Cypress Preserve

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of sections 698f to 698m of this title, but not to exceed $156,700,000 for the acquisition of lands and interests in lands and not to exceed $900,000 for development. Any funds donated to the United States by the State of Florida pursuant to chapter 73-131 of the Florida statutes shall be used solely for the acquisition of lands and interests in land within the preserve.

(As amended Pub. L. 95-625, title II, § 201(1), Nov. 10, 1978, 92 Stat. 3473.)

AMENDMENTS

1978—Pub. L. 95-625 increased land acquisition appropriations authorization to $156,700,000 from $116,000,000.

CHAPTER 7—PROTECTION OF MIGRATORY GAME AND INSECTIVOROUS BIRDS

SUBCHAPTER II—MIGRATORY BIRD TREATY

Sec.
712. Treaty and convention implementing regulations; seasonal taking of migratory birds for essential needs of indigenous Alaskans to preserve and maintain stocks of the birds; protection and conservation of the birds [New].

SUBCHAPTER II—MIGRATORY BIRD TREATY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 459a-1, 668d, 695b, 695p, 715j, 718, 718f, 2404, 2407, 2408 of this title; title 18 section 43.

§ 706. Arrests; search warrants

Any employee of the Department of the Interior authorized by the Secretary of the Interior to enforce the provisions of this subchapter shall have power, without warrant, to arrest any person committing a violation of this subchapter in his presence or view and to take such person immediately for examination or trial before an officer or court of competent jurisdiction; shall have power to execute any warrant or other process issued by an officer or court of competent jurisdiction for the enforcement of the provisions of this subchapter; and shall have authority, with a search warrant, to search any place. The several judges of the courts established under the laws of the United States, and United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder shall, when found, be seized and, upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this subchapter or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 3(h)(1), 92 Stat. 3111.)

AMENDMENTS

1978—Pub. L. 95-616 made the provisions respecting seizures and judgment of the court applicable to birds, or parts, nests, or eggs sold or offered for sale, bartered or offered for barter, purchased, imported and exported and substituted "any regulation prescribed thereunder" in two instances for "any regulations made pursuant thereto" and "any regulation made pursuant thereto" and provision for disposition of the birds, etc., by the Secretary of the Interior in such manner as he deems appropriate for prior provision for such disposition as directed by the court having jurisdiction.

§ 712. Treaty and convention implementing regulations; seasonal taking of migratory birds for essential needs of indigenous Alaskans to preserve and maintain stocks of the birds; protection and conservation of the birds

(1) In accordance with the various migratory bird treaties and conventions with Canada, Japan, Mexico, and the Union of Soviet Socialist Republics, the Secretary of the Interior is authorized to issue such regulations as may be necessary to assure that the taking of migratory birds and the collection of their eggs, by the indigenous inhabitants of the State of Alaska, shall be permitted for their own nutritional and other essential needs, as determined by the Secretary of the Interior, during seasons established so as to provide for the preservation and maintenance of stocks of migratory birds.

(2) The Secretary of the Interior is authorized to issue such regulations as may be necessary to implement the provisions of the convention between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the convention between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the convention between the United States and the Government of Japan for the protection of migratory birds in danger of extinction, and their environment concluded March 4, 1972, and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environment concluded November 19, 1976.

(Pub. L. 95-616, § 3(h)(2), (3), Nov. 8, 1978, 92 Stat. 3112.)

CODIFICATION

Par. (1) of section 3(h) of Pub. L. 95-616 amended section 706 of this title. Pars. (2) and (3) of such section 3(h) were redesignated (1) and (2) for codification purposes.

Section is a part of the Fish and Wildlife Improvement Act of 1978, and not a part of the Migratory Bird Treaty Act which comprises this subchapter.

SUBCHAPTER III—MIGRATORY BIRD CONSERVATION

§ 715c. Areas recommended for approval; character

The Secretary of the Interior may not recommend any area for purchase or rental under the terms of this subchapter unless the Secretary of the Interior—

(1) has determined that such area is necessary for the conservation of migratory birds; and

(2) has consulted with the county or other unit of local government in which such area is located and with the Governor of the State concerned or the appropriate State agency.

(As amended Oct. 30, 1978, Pub. L. 95-552, § 2, 92 Stat. 2071.)

AMENDMENTS

1978—Pub. L. 95-552 substituted "may not recommend any area" for "shall recommend no area", incorporated existing provision in item (1) and added item (2).

§ 715d. Purchase or rental of approved areas or interests therein; gifts and devises; United States lands

The Secretary of the Interior may—

(1) purchase or rent such areas or interests therein as have been approved for purchase or rental by the Commission at the price or prices fixed by the Commission; and

(2) acquire, by gift or devise, any area or interests therein;

which he determines to be suitable for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. The Secretary may pay, when deemed necessary by him and from moneys authorized to be appropriated for the purposes of this subchapter (A) the purchase or rental price of any such area or interest therein, and (B) the expenses incident to the location, examination, survey, and acquisition of title (including options) of any such area or interest therein. No lands acquired, held, or used by the United States for military purposes shall be subject to any provisions of this subchapter.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 5(a), 92 Stat. 3113.)

AMENDMENTS

1978—Pub. L. 95-616 incorporated existing provisions in pars. (1) and (2) and clauses (A) and (B), made the provisions applicable to interests in approved areas, and added authority for purchase or acquisition for other management purposes.

§ 715i. Administration

(a) Treaty obligations; rules and regulations

Areas of lands, waters, or interests therein acquired or reserved pursuant to this subchapter shall, unless otherwise provided by law, be administered by the Secretary of the Interior under rules and regulations prescribed by him to conserve and protect migratory birds in accordance with treaty obligations with Mexico, Canada, Japan, and the Union of Soviet Socialist Republics, and other species of wildlife found thereon, including species that are listed pursuant to section 1533 of this title as endangered species or threatened species, and to restore or develop adequate wildlife habitat.

[*See main edition for text of* (b)]

(As amended Nov. 8, 1978, Pub. L. 95-616, § 5(b), 92 Stat. 3114.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-616 provided for treaty obligations with Japan and the Union of Soviet Socialist Republics.

§ 715j. Migratory birds defined

For the purposes of this subchapter and the Migratory Bird Treaty Act (16 U.S.C. 703 et seq.), migratory birds are those defined as such by the treaty between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916 (39 Stat. 1702), the treaty between the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936 (50 Stat. 1311), the Convention between the Government of the United States of America and the Government of Japan for the Protection of Migratory Birds and Birds in Danger of Extinction, and their Environment concluded March 4, 1972, and the Convention between the United States and the Union of Soviet Socialist Republics for the Conservation of Migratory Birds and their Environment concluded November 19, 1976.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 5(c), 92 Stat. 3114.)

REFERENCES IN TEXT

The Migratory Bird Treaty Act, referred to in text, is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of this chapter. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978—Pub. L. 95-616 defined migratory birds for purposes of the Migratory Bird Treaty Act and to include those defined in the Convention of Mar. 4, 1972, concluded with Government of Japan and the Convention of Nov. 19, 1976, concluded with Union of Soviet Socialist Republics.

§ 715s. Participation of local governments in revenue from areas administered by the United States Fish and Wildlife Service

(a) Separate fund in United States Treasury; availability of funds until expended; definition of "National Wildlife Refuge System"

Beginning with the next full fiscal year and for each fiscal year thereafter, all revenues received by the Secretary of the Interior from the sale or other disposition of animals, salmonoid carcassas,[1] timber, hay, grass, or other products of the soil, minerals, shells, sand, or gravel, from other privileges, or from leases for public accommodations or facilities incidental to but not in conflict with the basic purposes for which those areas of the National Wildlife Refuge System were established, during each fiscal year in connection with the operation and management of those areas of the National Wildlife Refuge System, National Fish Hatcheries, or other areas, that are solely or primarily administered by him, through the United States Fish and Wildlife Service, shall be covered into the United States Treasury and be reserved in a separate fund for disposition as hereafter prescribed. Amounts in the fund shall remain available until expended, and may be expended by the Secretary without further appropriation in the manner hereafter prescribed. The National Wildlife Refuge System (hereafter referred to as the "system") includes those lands and waters administered by the Secretary as wildlife refuges, lands acquired or reserved for the protection and conservation of fish and wildlife that are listed pursuant to section 1533 of this title as endangered species or threatened species, wildlife ranges, game ranges, wildlife management areas, and waterfowl production areas established under any law, proclamation, Executive, or public land order.

(b) Deduction of expenses

The Secretary may pay from the fund any necessary expenses incurred by him in connec-

[1] So in original. Probably should read "carcasses".

tion with the revenue-producing and revenue-sharing measures.

(c) Payment to counties

(1) The Secretary shall pay out the fund, for each fiscal year beginning with the fiscal year ending September 30, 1979, to each county in which is situated any fee area whichever of the following amounts is greater:

(A) An amount equal to the product of 75 cents multiplied by the total acreage of that portion of the fee area which is located within such county.

(B) An amount equal to three-fourths of 1 per centum of the fair market value, as determined by the Secretary, of that portion of the fee area (excluding any improvements thereto made after the date of Federal acquisition) which is located within such county.

(C) An amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such fee area during such fiscal year; but if a fee area is located in two or more counties, the amount each such county is entitled to shall be the amount which bears to such 25 per centum the same ratio as that portion of the fee area acreage which is within such county bears to the total acreage of such fee area.

(2) At the end of each fiscal year the Secretary shall pay out of the fund for such fiscal year to each county in which any reserve area is situated, an amount equal to 25 per centum of the net receipts collected by the Secretary in connection with the operation and management of such area during such fiscal year: *Provided*, That when any such area is situated in more than one county the distributive share to each county from the aforesaid receipts shall be proportional to its acreage of such reserve area.

(3) For purposes of this section, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands shall each be treated as a county.

(4)(A) For purposes of determining the fair market value of fee areas under paragraph (1)(B), the Secretary shall—

(i) appraise before September 30, 1979, all fee areas for which payments under this section were not authorized for fiscal years occurring before October 1, 1977; and

(ii) appraise all other fee areas, within five years after October 17, 1978, in the order in which such areas were first established by the Service.

After initial appraisal under clause (i) or (ii), each fee area shall thereafter be reappraised by the Secretary at least once during each five-year period occurring after the date of the initial appraisal. Until any fee area referred to in clause (ii) is initially appraised under this subparagraph, the fair market value of such area shall be deemed to be that adjusted cost of the area which was used to determine payments under this subsection for fiscal year 1977; and in no case may the amount of any payment to any local government under paragraph (1)(B) with respect to any fee area be less than the amount paid under paragraph (2)(A) of this subsection (as in effect on September 30, 1977) with respect to such area.

(B) The Secretary shall make the determinations required under this subsection in such manner as the Secretary considers to be equitable and in the public interest. All such determinations shall be final and conclusive.

(5)(A) Each county which receives payments under paragraphs (1) and (2) with respect to any fee area or reserve area shall distribute, under guidelines established by the Secretary, such payments on a proportional basis to those units of local government (including, but not limited to, school districts and the county itself in appropriate cases) which have incurred the loss or reduction of real property tax revenues by reason of the existence of such area. In any case in which a unit of local government other than the county acts as the collecting and distributing agency for real property taxes, the payments under paragraphs (1) and (2) shall be made to such other unit which shall distribute the payments in accordance with the guidelines.

(B) The Secretary may prescribe regulations under which payments under this paragraph may be made to units of local government in cases in which subparagraph (A) will not effect the purposes of this paragraph.

(C) Payments received by units of local government under this subsection may be used by such units for any governmental purpose.

(d) Authorization of appropriations equal to difference between amount of net receipts and aggregate amount of required payments

If the net receipts in the fund which are attributable to revenue collections for any fiscal year do not equal the aggregate amount of payments required to be made for such fiscal year under subsection (c) of this section to counties, there are authorized to be appropriated to the fund an amount equal to the difference between the total amount of net receipts and such aggregate amount of payments.

(e) Transfer and use of excess of net receipts over aggregate amount of required payments

If the net receipts in the fund which are attributable to revenue collections for any fiscal year exceed the aggregate amount of payments required to be made for such fiscal year under subsection (c) of this section to counties, the amount of such excess shall be transferred to the Migratory Bird Conservation Fund for use in the acquisition of suitable areas for migratory bird refuges under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715–715r).

(f) Terms, conditions, and regulations for execution of revenue producing activities; disposal of animals

The Secretary shall carry out any revenue producing activity referred to in subsection (a)(1), (2), and (3) of this section within any fee area or reserve area subject to such terms, conditions, or regulations, including sales in the open markets, as the Secretary determines to be in the best interest of the United States. The Secretary may, in accordance with such regulations as the Secretary may prescribe, dispose of animals which are surplus to any such area by exchange of the same or other kinds, gift or loan to public institutions for exhibition or

propagation purposes, and for the advancement of knowledge and the dissemination of information relating to the conservation of wildlife.

(g) Definitions

As used in this section—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "fee area" means any area which was acquired in fee by the United States and is administered, either solely or primarily, by the Secretary through the Service.

(3) The term "reserve area" means any area of land withdrawn from the public domain and administered, either solely or primarily, by the Secretary through the Service.

(4) The term "Service" means the United States Fish and Wildlife Service.

(5) The term "county" means any county, parish, or organized or unorganized borough.

(h) Administration of payments to local governments for entitlement lands; reserved areas as entitlement lands; payments as payments under specified provisions

In administering sections 1601 to 1607 of title 31, for fiscal years occurring after September 30, 1978—

(1) reserve areas shall be deemed to be entitlement lands for purposes of section 1606(a) of title 31; and

(2) payments received by any unit of local government pursuant to subsection (c)(2) of this section shall be deemed to be payments under a provision of law specified in section 1604 of title 31.

(As amended Oct. 17, 1978, Pub. L. 95-469, § 1(a), 92 Stat. 1319.)

CODIFICATION

The reference in subsec. (f) to "revenue producing activity referred to in subsection (a)(1), (2), and (3) of this section", enacted as an amendment to subsec. (f) by section 1(a)(3) of Pub. L. 95-469, is a reference to the proposed amendment as set out on pg. 1 of House Report No. 95-1197 of the 95th Congress, 2d Session, May 15, 1978, and reading in part:

"(a) All revenues received during each fiscal year by the Secretary in connection with the operation and management of fee areas and reserve areas from—

"(1) the sale or disposition of animals, salmonoid carcasses, products of the soil (including, but not limited to, timber, hay, and grass), minerals (including, but not limited to, crude petroleum and natural gas), shells, sand, and gravel;

"(2) leases for public accommodations or facilities incidental to, but not in conflict with, the major purposes of such areas; and

"(3) other privileges;

shall be covered" which was not enacted by the Congress but subsec. (a) was amended as provided in the 1978 Amendment note below.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-469, § 1(a)(1), authorized the separate fund in the United States Treasury to include revenues from sale or other disposition of salmonoid carcasses and extended the operation and management provision to areas of National Fish Hatcheries and other areas administered by the Secretary.

Subsec. (b). Pub. L. 95-469, § 1(a)(2), substituted "revenue-producing and revenue-sharing measures" for "revenue-producing measures set forth in subsection (a) of this section".

Subsec. (c). Pub. L. 95-469, § 1(a)(3), in revising the text, substituted pars. (1) to (5) for prior text consisting of: introductory text authorizing expenditures solely for benefit of public schools and roads, now covered in par. (5)(C); par. (1) of first sentence, now included in par. (2); par. (2) of first sentence, now covered in pars. (1)(B), (C) and (4) in part; and second sentence now incorporated in par. (4)(B).

Subsec. (d). Pub. L. 95-469, § 1(a)(3), substituted provision for authorization of appropriations equal to difference between amount of net receipts and aggregate amount of required payments for prior provision limiting amount payable to the counties to amount of net receipts in the fund for any fiscal year and a proportionate reduction of payments when net receipts are insufficient for aggregate amount of payments for any fiscal year.

Subsec. (e). Pub. L. 95-469, § 1(a)(3), in revising subsec. (e), substituted provision authorizing use of surplus funds for acquisition of suitable areas for migratory bird refuges for prior provision making remaining funds available for such land acquisition and eliminated provision prohibiting funds available for the Management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act from being diminished by the amendments made by Pub. L. 93-509 to this subsection unless by specific congressional enactment.

Subsec. (f). Pub. L. 95-469, § 1(a)(3), substituted "The Secretary shall carry out any revenue producing activity referred to in subsection (a)(1), (2), and (3) of this section within any fee area or reserve area subject to such terms, conditions, or regulations, including sales in the open markets, as the Secretary determines to be in the best interest of the United States." for "The disposition or sale of surplus animals, minerals, and other products, the grant of privileges, and the carrying out of any other activities that result in the collection of revenues within any areas of the System may be accomplished upon such terms, conditions, or regulations, including sale in the open markets, as the Secretary shall determine to be in the best interest of the United States." and reenacted substance of second sentence, setting out provision for regulations at the beginning rather than the end of the sentence.

Subsec. (g). Pub. L. 95-469, § 1(a)(3), substituted definitions of certain terms for prior provision for supersedure by Pub. L. 88-523 of repealed paragraph of "Management of National Wildlife Refuges" in the General Appropriation Act, 1951, approved Sept. 6, 1950 (64 Stat. 595, 693 to 694).

Subsec. (h). Pub. L. 95-469, § 1(a)(4), added subsec. (h).

EFFECTIVE DATE OF 1978 AMENDMENT; FISCAL YEAR OF AVAILABILITY OF APPROPRIATION AUTHORIZATION

Section 2 of Pub. L. 95-469 provided that: "The amendments made by this Act [amending this section and sections 1603, 1605 and 1606 of Title 31, Money and Finance], shall apply with respect to payments made to counties under title IV of the Act of June 15, 1935 [this section], for the fiscal year ending September 30, 1979, and for fiscal years thereafter; except that the amendments made to such title IV [this section] which amend section 401 (a) and (g), add paragraph (4) to section 401(c) [subsecs. (a) and (g), and (c)(4) of this section], and amend the title heading [of this section] shall take effect on the date of the enactment of this Act [Oct. 17, 1978]. No authorization for appropriation shall be available under this Act before the fiscal year ending September 30, 1980."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 666g, 1535 of this title.

SUBCHAPTER IV—HUNTING AND CONSERVATION STAMP TAX

§ 718b. Issuance and sale of stamps; deposit of funds in migratory bird conservation fund; fees; validity; expiration; redemption; definition of retail dealer and hunting year

(a) The stamps required by section 718a of this title shall be issued and sold by the Postal Service and may be sold by the Department of the Interior, pursuant to regulations prescribed jointly by the Postal Service and the Secretary of the Interior, at (1) each post office of the first- and second-class, and (2) any establishment, facility, or location as the Postal Service and the Secretary of the Interior shall direct or authorize. The funds received from the sale of such stamps by the Department of the Interior shall be deposited in the migratory bird conservation fund in accordance with the provisions of section 718d of this title. Except as provided in subsection (b) of this section, for each stamp sold under the provisions of this section for any hunting year there shall be collected by the Postal Service a sum of not less than $3 and not more than $5 as determined by the Secretary of the Interior after taking into consideration, among other matters, the increased cost of lands needed for the conservation of migratory birds. No such stamp shall be valid under any circumstances to authorize the taking of migratory waterfowl except in compliance with Federal and State laws and regulations and then only when the person so taking such waterfowl shall himself have written his signature in ink across the face of the stamp prior to such taking. Such stamps shall be usable as migratory-bird hunting stamps only during the year for which issued. The Postal Service, pursuant to regulations prescribed by it, shall provide for the redemption, on or before the 30th day of June of each year, of blocks composed of two or more attached unused stamps issued for such year (A) that were sold on consignment to any person, including, but not limited to, retail dealers for resale to their customers, and (B) that have not been resold by any such person. As used in this section, the term "retail dealers" means persons regularly engaged in the business of retailing hunting or fishing equipment, and persons duly authorized to act as agents of a State or political subdivision thereof for the sale of State or county hunting or fishing licenses.

(b) The Postal Service shall collect $7.50 for each stamp sold under the provisions of this section for any hunting year if the Secretary of the Interior determines, at any time before February 1 of the calendar year in which such hunting year begins, that all sums in the migratory bird conservation fund attributable to—

(1) amounts appropriated pursuant to this subchapter for the fiscal year ending in the immediately preceding calendar year; and

(2) the sale of stamps under this section during such fiscal year

have been obligated for expenditure. For purposes of this section, the term "hunting year" means the 12-month period beginning on July 1 of any such year.

(As amended Oct. 30, 1978, Pub. L. 95-552, § 1, 92 Stat. 2071; Nov. 8, 1978, Pub. L. 95-616, § 7(a), 92 Stat. 3114.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-616 substituted in sixth sentence "June" for "September".

Pub. L. 95-552, § 1(1), (2), designated existing provisions as subsec. (a), inserted in third sentence introductory text "Except as provided in subsection (b) of this section," and "for any hunting year" preceding "there shall be collected".

Subsec. (b). Pub. L. 95-552, § 1(3), added subsec. (b).

§ 718c. Compliance with treaty or convention regulations and State game laws

Nothing in this subchapter shall be construed to authorize any person to take any migratory waterfowl otherwise than in accordance with regulations adopted and approved pursuant to any treaty or convention heretofore or hereafter entered into between the United States and any other country for the protection of migratory birds, nor to exempt any person from complying with the game laws of the several States.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 7(b), 92 Stat. 3114.)

AMENDMENTS

1978—Pub. L. 95-616 provided for convention regulations.

§ 718f. Enforcement; authority of United States judges, magistrates, and employees of Department of the Interior

For the efficient execution of this subchapter, the judges of the several courts, established under the laws of the United States, United States magistrates, and persons appointed by the Secretary of the Interior to enforce the provisions of this subchapter, shall have, with respect thereto, like powers and duties as are conferred upon said judges, magistrates, and employees of the Department of the Interior by the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.], or any other Act to carry into effect any treaty for the protection of migratory birds with respect to that Act. Any bird or part thereof taken or possessed contrary to this subchapter shall, when seized, be disposed of by the Secretary in accordance with law.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 3(i), 92 Stat. 3112.)

AMENDMENTS

1978—Pub. L. 95-616 substituted in last sentence "contrary to this subchapter shall, when seized, be disposed of by the Secretary in accordance with law" for "contrary to such Acts shall, when seized, be disposed of as provided by the Migratory Bird Treaty Act, or Acts aforesaid".

CHAPTER 9—FISH AND WILDLIFE SERVICE

Sec.

742*l*. Enforcement authority for the protection of fish and wildlife resources [New].

(a) Law enforcement training program.

(b) Law enforcement cooperative agreement.

(c) Disposal of abandoned or forfeited property.

(d) Disclaimer.

§ 742a. Declaration of policy

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-616, § 1, Nov. 8, 1978, 92 Stat. 3110, provided: "That this Act [which enacted sections 695j—1, 712, 742*l* of this title and amended sections 460k—3, 666g, 668a, 668dd, 690e, 695i, 706, 715d, 715i, 715j, 718b, 718c, 718f, 742f, 753a of this title and sections 1114, 3112 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Fish and Wildlife Improvement Act of 1978'."

§ 742f. Powers of Secretaries of Interior and Commerce

(a) Policies, procedures, and recommendations

The Secretary of the Interior, with such advice and assistance as he may require from the Assistant Secretary for Fish and Wildlife, shall consider and determine the policies and procedures that are necessary and desirable in carrying out efficiently and in the public interest the laws relating to fish and wildlife. The Secretary, with the assistance of the departmental staff herein authorized, shall—

[*See main edition for text of (1) and (2)*]

(3) develop and recommend special promotional and informational activities with a view to stimulating the consumption of fishery products whenever he determines that there is a prospective or actual surplus of such products; and

(4) take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities, and acquisition by purchase or exchange of land and water, or interests therein.

(b) Gifts, devises, or bequests for performance of activities and services of United States Fish and Wildlife Service; restrictive or affirmative covenants or conditions of servitude; separate account in Treasury; disbursement orders; gifts or bequests to United States for Federal tax purposes

(1) In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devises, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

(2) Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and shall be disbursed upon order of the Secretary for the benefit of programs administered by the United States Fish and Wildlife Service.

(3) For the purpose of Federal income, estate, and gift taxes, property, or proceeds therefrom, or interests therein, accepted under this subsection shall be considered as a gift or bequest to the United States.

(c) Volunteer services; incidental expenses; Federal employee status; authorization of appropriations

(1) The Secretary of the Interior and the Secretary of Commerce may each recruit, train, and accept, without regard to the provisions of title 5, the services of individuals without compensation as volunteers for, or in aid of programs conducted by either Secretary through the United States Fish and Wildlife Service or the National Oceanic and Atmospheric Administration.

(2) The Secretary of the Interior and the Secretary of Commerce are each authorized to provide for incidental expenses such as transportation, uniforms, lodging, and subsistence of such volunteers.

(3) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relative to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(4) For the purpose of the tort claim provisions of title 28, a volunteer under this subsection shall be considered a Federal employee.

(5) For the purposes of subchapter I of chapter 81 of title 5, relating to compensation to Federal employees for work injuries, volunteers under this subsection shall be deemed employees of the United States within the meaning of the term "employees" as defined in section 8101 of title 5, and the provisions of that subchapter shall apply.

(6) There are authorized to be appropriated to carry out this subsection $100,000 for the Secretary of the Interior and $50,000 for the Secretary of Commerce for each of the fiscal years 1980, 1981, and 1982.

(As amended Nov. 8, 1978, Pub. L. 95-616, § 4, 92 Stat. 3112.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(1), is act Aug. 8, 1956, ch. 1036, which is popularly known as the Fish and Wildlife Act of 1956. The Act is classified generally to sections 742a to 742d and 742e to 742j of this title. For complete classification of this Act to the Code, see Short Title note set out under section 742a of this title and Tables.

The tort claim provisions of title 28, referred to in subsec. (c)(4), are the provisions of the Federal Tort Claims Act, which is classified generally to section 1346(b) and to chapter 171 (§ 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

AMENDMENTS

1978—Subsec. (a)(4). Pub. L. 95-616, § 4(1), reenacted existing provisions, substituting reference to fish resources for prior reference to fisheries resources and incorporated provisions of par. (5) relating to wildlife resources, substituting reference to acquisition by purchase or exchange of land and water for prior reference to acquisition of refuge lands.

Subsec. (a)(5). Pub. L. 95-616, § 4(1), struck out provisions of par. (5) relating to wildlife resources, now covered in par. (4).

Subsecs. (b), (c). Pub. L. 95-616, § 4(3), added subsecs. (b) and (c).

§ 742*l*. Enforcement authority for the protection of fish and wildlife resources

(a) Law enforcement training program

(1) In order to provide for and encourage training, research, and development for the purpose of improving fish and wildlife law enforcement and developing new methods for the prevention, detection, and reduction of violation of fish and wildlife laws, and the apprehension of violators of such laws, the Secretary of the Interior and the Secretary of Commerce may each—

(A) establish and conduct national training programs to provide, at the request of any State, training for State fish and wildlife law enforcement personnel;

(B) develop new or improved approaches, techniques, systems, equipment, and service to improve and strengthen fish and wildlife law enforcement; and

(C) assist in conducting, at the request of any appropriate State official, local or regional training programs for the training of State fish and wildlife law enforcement personnel.

Such training programs shall be conducted to the maximum extent practicable through established programs.

(2) There are authorized to be appropriated beginning with fiscal year 1980 such funds as may be necessary to carry out the purposes of subsection (b) of this section, and the Secretary of the Interior and the Secretary of Commerce may each require reimbursement from the States for expenditures made pursuant to subsections (b)(1)(A) and (C) of this section.

(b) Law enforcement cooperative agreement

Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Commerce may each utilize by agreement, with or without reimbursement, the personnel, services and facilities of any other Federal or State agency to the extent he deems it necessary and appropriate for effective enforcement of any Federal or State laws on lands, waters, or interests therein under his jurisdiction which are administered or managed for fish and wildlife purposes and for enforcement of any laws administered by him relating to fish and wildlife. Persons so designated by either Secretary, who are not employees of another Federal agency—

(1) shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered eligible for compensation for work injuries under subchapter III of chapter 81 of title 5;

(2) shall be considered to be investigative or law enforcement officers of the United States for the purposes of the tort claim provisions of title 28;

(3) may, to the extent specified by either Secretary, search, seize, arrest, and exercise any other law enforcement functions or authorities under Federal laws relating to fish and wildlife, where such authorities are made applicable by this or any other law to employees, officers, or other persons designated or employed by either Secretary; and

(4) shall be considered to be officers or employees of the Department of the Interior or the Department of Commerce, as the case may be, within the meaning of sections 111 and 1114 of title 18.

(c) Disposal of abandoned or forfeited property

Notwithstanding any other provision of law, all fish, wildlife, plants, or any other items abandoned or forfeited to the United States under any laws administered by the Secretary of the Interior or the Secretary of Commerce relating to fish, wildlife, or plants, shall be disposed of by either Secretary in such a manner as he deems appropriate (including, but not limited to, loan, gift, sale, or destruction).

(d) Disclaimer

Nothing in this section shall be construed to invalidate any law enforcement agreement or delegation made by the Secretary of the Interior or the Secretary of Commerce with respect to fish and wildlife matters prior to November 8, 1978.

(Pub. L. 95-616, § 3(a)-(d), Nov. 8, 1978, 92 Stat. 3110.)

REFERENCES IN TEXT

The tort claim provisions of title 28, referred to in subsec. (b)(2), are the provisions of the Federal Tort Claims Act, which is classified generally to section 1346(b) and to chapter 171 (§ 2671 et seq.) of Title 28, Judiciary and Judicial Procedure.

This section, referred to in subsec. (d), means section 3 of Pub. L. 95-616, which in addition to enacting this section, enacted section 712 of this title and amended sections 460k-3, 668dd, 690e, 706, and 718f of this title and sections 1114 and 3112 of Title 18, Crimes and Criminal Procedure.

§ 743a. Detail of personnel and loan equipment to Director of the Bureau of Sport Fisheries and Wildlife

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

§ 753a. Cooperative research and training programs for fish and wildlife resources

For the purpose of developing adequate, coordinated, cooperative research and training programs for fish and wildlife resources, the Secretary of the Interior or the Secretary of Commerce, as appropriate, is authorized to continue to enter into cooperative agreements with colleges and universities, with game and fish departments of the several States, and with nonprofit organizations relating to cooperative research units: *Provided*, That Federal participation in the conduct of such cooperative unit programs shall be limited to the assignment of Department of the Interior or Department of

Commerce scientific personnel by the Secretary to serve at the respective units, to the provision of assistance (including reasonable financial compensation) for the work of researchers on fish and wildlife ecology and resource management projects funded under this subsection[1] to supply for the use of the particular units' operations such equipment as may be available to the Secretary for such purposes, and the payment of incidental expenses of Federal personnel and employees of cooperating agencies assigned to the units.

(As amended Pub. L. 95-616, § 2, Nov. 8, 1978, 92 Stat. 3110.)

AMENDMENTS

1978—Pub. L. 95-616, in the proviso, substituted "scientific personnel" for "technical personnel" and authorized provision of assistance (including reasonable financial compensation) for the work of researchers on funded fish and wildlife ecology and resource management projects.

CHAPTER 9A—PRESERVATION OF FISHERY RESOURCES

Sec.
758e-1a. Cooperative program for development of tuna and other latent fishery resources in area; establishment; availability of project information [New].

§ 757a. Anadromous, Great Lakes, and Lake Champlain fisheries

(a) Conservation, development, and enhancement; cooperative agreements; costs

For the purpose of conserving, developing, and enhancing within the several States the anadromous fishery resources of the Nation that are subject to depletion from water resources developments and other causes, or with respect to which the United States has made conservation commitments by international agreements, and for the purpose of conserving, developing, and enhancing the fish in the Great Lakes and Lake Champlain that ascend streams to spawn, the Secretary of the Interior is authorized to enter into cooperative agreements with one or more States, acting jointly or severally, that are concerned with the development, conservation, and enhancement of such fish, and, whenever he deems it appropriate, with other non-Federal interests. Such agreements shall describe (1) the actions to be taken by the Secretary and the cooperating parties, (2) the benefits that are expected to be derived by the States and other non-Federal interests, (3) the estimated cost of these actions, (4) the share of such costs to be borne by the Federal Government and by the States and other non-Federal interests: *Provided*, That; except as provided in subsection (c) of this section, the Federal share, including the operation and maintenance costs of any facilities constructed by the Secretary pursuant to sections 757a to 757f of this title, which he annually determines to be a proper Federal cost, shall not exceed 50 per centum of such costs exclusive of the value of any Federal land involved: *Provided, further*, That the non-Federal share may be in the form of real or personal property, the value of which will be determined by the Secretary, as well as money, (5) the term of the agreement, (6) the terms and conditions for disposing of any real or personal property acquired by the Secretary during or at the end of the term of the agreement, and (7) such other terms and conditions as he deems desirable.

[*See main edition for text of* (b)]

(c) Increase of Federal share

Whenever two or more States having a common interest in any basin jointly enter into a cooperative agreement with the Secretary under subsection (a) of this section to carry out a research and development program to conserve, develop, and enhance anadromous fishery resources of the Nation, or fish in the Great Lakes and Lake Champlain that ascend streams to spawn, the Federal share of the program costs shall be increased to a maximum of 66⅔ per centum. Structures, devices, or other facilities, including fish hatcheries, constructed by such States under a cooperative agreement described in this subsection shall be operated and maintained without cost to the Federal Government. For the purpose of this subsection, the term "basin" includes rivers and their tributaries, lakes, and other bodies of water or portions thereof.

(As amended Pub. L. 95-464, Oct. 17, 1978, 92 Stat. 1278.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-464 inserted "and Lake Champlain" following "Great Lakes".

Subsec. (c). Pub. L. 95-464 inserted "and Lake Champlain" following "Great Lakes".

§ 757b. Authority of the Secretary with regards to Anadromous and Great Lakes fisheries; development and management

The Secretary, in accordance with any agreements entered into pursuant to section 757a(a) of this title, is authorized (1) to conduct such investigations, engineering and biological surveys, and research as may be desirable to carry out the program; (2) to carry out stream clearance activities; (3) to construct, install, maintain, and operate devices and structures for the improvement of feeding and spawning conditions, for the protection of fishery resources, and for facilitating the free migration of the fish, and for the control of the sea lamprey; (4) to construct, operate, and maintain fish hatcheries wherever necessary to accomplish the purposes of sections 757a to 757f of this title; (5) to conduct such studies and make such recommendations as the Secretary determines to be appropriate regarding the development and management of any stream or other body of water for the conservation and enhancement of anadromous fishery resources and the fish in the Great Lakes and Lake Champlain that ascend streams to spawn: *Provided*, That the reports on such studies and the recommendations of the Secretary shall be transmitted to the States, the Congress, and the Federal water resources construction agencies for their information: *Provided further*, That sections 757a to

[1] So in original. Probably should be "section".

757f of this title shall not be construed as authorizing the formulation or construction of water resources projects, except that water resources projects which are determined by the Seretary[1] to be needed solely for the conservation, protection, and enhancement of such fish may be planned and constructed by the Bureau of Reclamation in its currently authorized geographic area of responsibility or by the Corps of Engineers, or by the Department of Agriculture, or by the States, with funds made available by the Secretary under sections 757a to 757f of this title and subject to the cost-sharing and appropriations provisions of sections 757a to 757f of this title; (6) to acquire lands or interests therein by purchase, lease, donation, or exchange for acquired lands or public lands under his jurisdiction which he finds suitable for disposition: *Provided*, That the lands or interests therein so exchanged shall involve approximately equal values, as determined by the Secretary: *Provided further*, That the Secretary may accept cash from, or pay cash to, the grantor in such an exchange in order to equalize the values of the properties exchanged; (7) to accept donations of funds and to use such funds to acquire or manage lands or interests therein; and (8) to administer such lands or interests therein for the purposes of sections 757a to 757f of this title. Title to lands or interests therein acquired pursuant to sections 757a to 757f of this title shall be in the United States.

(As amended Pub. L. 95–464, Oct. 17, 1978, 92 Stat. 1278.)

AMENDMENTS

1978—Cl. (5). Pub. L. 95–464 inserted "and Lake Champlain" following "Great Lakes".

§ 758e. Central, Western, and South Pacific Ocean fisheries development program

The Secretary of Commerce (hereafter referred to in sections 758e to 758e–5 of this title as the "Secretary") is authorized to carry out, directly or by contract, with the Pacific Tuna Development Foundation or other agency or organization, a program for the development of the tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean. The program shall include, but not be limited to, exploration for, and stock assessment of, tuna and other fish; improvement of harvesting techniques; gear development; biological resource monitoring; and an economic evaluation of the potential for tuna and other fisheries in such area.

(As amended Pub. L. 95–295, § 1(1), June 16, 1978, 92 Stat. 319.)

AMENDMENTS

1978—Pub. L. 95–295 added provision authorizing contracts for programs with the Pacific Tuna Development Foundation or other agency or organization.

§ 758e–1. Consultation and cooperation between certain Federal officers, affected States, etc., in carrying out program

In carrying out the purposes of sections 758e to 758e–5 of this title, the Secretary shall consult, and may otherwise cooperate, with the Secretary of the Interior, the Secretary of State, the State of Hawaii and other affected States, the governments of American Samoa and Guam, the Office of the High Commissioner of the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, educational institutions, the commercial fishing industry, and all appropriate member nations of a South Pacific regional fishery agency (hereinafter referred to in sections 758e to 758e–5 of this title as the "agency"), if such an agency is formed.

(As amended Pub. L. 95–295, § 1(2), June 16, 1978, 92 Stat. 319.)

AMENDMENTS

1978—Pub. L. 95–295 added provisions requiring consultation and cooperation with the Secretary of State, Commonwealth of the Northern Mariana Islands, and all appropriate member nations of a South Pacific regional fishery agency, if such an agency is formed.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 758e, 758e–1a to 758e–5 of this title.

§ 758e–1a. Cooperative program for development of tuna and other latent fishery resources in area; establishment; availability of project information

In addition to the authority granted in section 758e of this title, the Secretary, in consultation with representatives of all interested member nations of the agency, and those parties set forth in section 758e–1 of this title, may establish in accordance with section 758e of this title, a cooperative program for the development of tuna and other latent fisheries resources of the Central, Western, and South Pacific Ocean to be submitted to the President and the Congress within one year following official formation of the agency. The Secretary shall make available to all interested member nations of the agency the results and findings of research or development projects carried out under sections 758e to 758e–5 of this title.

(Pub. L. 92–444, § 4, as added Pub. L. 95–295, § 1(3), June 16, 1978, 92 Stat. 319.)

§ 758e–2. Report to President and Congress

CODIFICATION

Section 4 of Pub. L. 92–444, cited in the credits, was redesignated as section 5 by Pub. L. 95–295, § 1(4), June 16, 1978, 92 Stat. 319.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 758e, 758e–1, 758e–1a, 758e–3 to 758e–5 of this title.

§ 758e–3. Regulations; contract terms and conditions

CODIFICATION

Section 5 of Pub. L. 92–444, cited in the credits, was redesignated as section 6 by Pub. L. 95–295, § 1(4), June 16, 1978, 92 Stat. 319.

§ 758e–4. Central, Western, and South Pacific Ocean area

CODIFICATION

Section 6 of Pub. L. 92–444, cited in the credits, was redesignated as section 7 by Pub. L. 95–295, § 1(4), June 16, 1978, 92 Stat. 319.

[1] So in original. Probably should be "Secretary".

§ 758e-5. Authorization of appropriations

There is authorized to be appropriated for the period beginning July 1, 1973, and ending June 30, 1976, the sum of $3,000,000, and for the period beginning July 1, 1976, and ending September 30, 1979, the sum of $4,000,000, and for each of the fiscal years 1980, 1981, and 1982, the sum of $5,000,000, to carry out the purposes of sections 758e to 758e-5 of this title. Sums appropriated pursuant to this section shall remain available until expended.

(Pub. L. 92-444, § 8, formerly § 7, Sept. 29, 1972, 86 Stat. 745, amended Pub. L. 94-343, § 1(3), July 6, 1976, 90 Stat. 809, renumbered and amended Pub. L. 95-295, §§ 1(4), 2, June 16, 1978, 92 Stat. 319, 320.)

AMENDMENTS

1978—Pub. L. 95-295 added provisions authorizing appropriations of $5,000,000 for each of the fiscal years 1980 to 1982, and substituted "$4,000,000" for "$3,000,000".

CHAPTER 10B—FISH RESTORATION AND MANAGEMENT PROJECTS

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1225 of this title; title 25 section 1709.

CHAPTER 10D—STATE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT PROJECTS

§ 779b. Authorization of appropriations

(a) There are authorized to be appropriated to the Secretary of Commerce for apportionment to the States to carry out the purposes of this chapter the following sums:

(1) $5,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, and June 30, 1976, and September 30, 1977,

(2) $10,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.

(b) In addition to the amounts authorized in subsection (a) of this section, there are authorized to be appropriated to the Secretary of Commerce—

(1) $1,500,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977, and

(2) $3,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980

which shall be available to the States in such amounts as the Secretary of Commerce may determine appropriate for the purposes of this chapter: *Provided*, That the Secretary shall give a preference to those States in which he determines there is a commercial fishery failure or serious disruption affecting future production due to a resource disaster arising from natural or undetermined causes in providing funds to States from the amount in clause (2) of this subsection, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such failure or to prevent a similar failure in the future: *Provided further*, That the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels. Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) In addition to the funds authorized in subsections (a) and (b) of this section, there are authorized to be appropriated to the Secretary of Commerce the following sums which shall be made available to one or more States in such amounts as the Secretary of Commerce may determine to be appropriate for developing a new commercial fishery therein:

(1) $100,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977.

(2) $500,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.

(As amended Pub. L. 95-53, June 22, 1977, 91 Stat. 249.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-53, § 1(1), raised the appropriation authorization for the fiscal year ending Sept. 30, 1978, from $5,000,000 to $10,000,000 and authorized an appropriation of $10,000,000 for each of the fiscal years ending Sept. 30, 1979, and Sept. 30, 1980.

Subsec. (b). Pub. L. 95-53, § 1(2), raised the appropriation authorization for the fiscal year ending Sept. 30, 1978, from $1,500,000 to $3,000,000 and authorized an appropriation of $3,000,000 for each of the fiscal years ending Sept. 30, 1979, and Sept. 30, 1980, and substituted "commercial fishery failure or serious disruption affecting future production" for "commercial fishery failure".

Subsec. (c). Pub. L. 95-53, § 1(3), raised the appropriation authorization for the fiscal year ending Sept. 30, 1978, from $100,000 to $500,000 and authorized an appropriation of $500,000 for each of the fiscal years ending Sept. 30, 1979, and Sept. 30, 1980.

CHAPTER 12—FEDERAL REGULATION AND DEVELOPMENT OF POWER

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SUBCHAPTER I—REGULATION OF THE DEVELOPMENT OF WATER POWER AND RESOURCES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 824a–3, 825o of this title; title 42 section 7172; title 43 section 1555.

§ 791a. Short title

CODIFICATION

Section 320 of act June 10, 1920, ch. 285, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863, cited as the credit to this section, was redesignated section 321 by Pub. L. 95–617, title II, § 212, Nov. 9, 1978, 92 Stat. 3148.

§§ 792, 793

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 795. Omitted

CODIFICATION

Section, which related to expenses of the commission generally, consisted of the third paragraph of section 2 of act June 10, 1920, ch. 285, 41 Stat. 1063. Such section 2 was amended generally by act June 23, 1930, ch. 572, § 1, 46 Stat. 798, and is now classified to section 793 of this title. The first and second paragraphs of said section 2 were formerly classified to sections 793 and 794 of this title.

§ 796. Definitions

The words defined in this section shall have the following meanings for purposes of this chapter, to wit:

[*See main edition for text of (1) to (16)*]

(17)(A) "small power production facility" means a facility which—

(i) produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, or any combination thereof; and

(ii) has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), is not greater than 80 megawatts;

(B) "primary energy source" means the fuel or fuels used for the generation of electric energy, except that such term does not include, as determined under rules prescribed by the Commission, in consultation with the Secretary of Energy—

(i) the minimum amounts of fuel required for ignition, startup, testing, flame stabilization, and control uses, and

(ii) the minimum amounts of fuel required to alleviate or prevent—

(I) unanticipated equipment outages, and

(II) emergencies, directly affecting the public health, safety, or welfare, which would result from electric power outages;

(C) "qualifying small power production facility" means a small power production facility—

(i) which the Commission determines, by rule, meets such requirements (including requirements respecting fuel use, fuel efficiency, and reliability) as the Commission may, by rule, prescribe; and

(ii) which is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);

(D) "qualifying small power producer" means the owner or operator of a qualifying small power production facility;

(18)(A) "cogeneration facility" means a facility which produces—

(i) electric energy, and

(ii) steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes;

(B) "qualifying cogeneration facility" means a cogeneration facility which—

(i) the Commission determines, by rule, meets such requirements (including requirements respecting minimum size, fuel use, and fuel efficiency) as the Commission may, by rule, prescribe; and

(ii) is owned by a person not primarily engaged in the generation or sale of electric power (other than electric power solely from cogeneration facilities or small power production facilities);

(C) "qualifying cogenerator" means the owner or operator of a qualifying cogeneration facility;

(19) "Federal power marketing agency" means any agency or instrumentality of the United States (other than the Tennessee Valley Authority) which sells electric energy;

(20) "evidentiary hearings" and "evidentiary proceeding" mean a proceeding conducted as provided in sections 554, 556, and 557 of title 5;

(21) "State regulatory authority" has the same meaning as the term "State commission", except that in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority (as defined in section 2602 of this title), such term means the Tennessee Valley Authority;

(22) "electric utility" means any person or State agency which sells electric energy; such term includes the Tennessee Valley Authority, but does not include any Federal power marketing agency.

(As amended Nov. 9, 1978, Pub. L. 95-617, title II, § 201, 92 Stat. 3134.)

AMENDMENTS

1978—Pars. (17) to (22). Pub. L. 95-617 added pars. (17) to (22).

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 807, 824a-3, 2708 of this title; title 15 section 3346.

§ 797. General powers of Commission

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 796, 828b of this title; title 42 section 7172.

§§ 798 to 808

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

§§ 809 to 812

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 813. Power entering into interstate commerce; regulation of rates, charges, etc.

CODIFICATION

The Act to regulate commerce approved February 4, 1887, as amended, referred to in text, is the Interstate Commerce Act (act Feb. 4, 1887, ch. 104, 24 Stat. 379, as amended), which was classified generally to chapters 1 (§ 1 et seq.), 8 (§ 301 et seq.), 12 (§ 901 et seq.), 13 (§ 1001 et seq.), and 19 (§ 1231 et seq.) of Title 49, Transportation. The Act was repealed by Pub. L. 95-473, § 4(b), Oct. 17, 1978, 92 Stat. 1467, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49. For distribution of former sections of Title 49 into the revised Title 49, see Table at the beginning of Title 49.

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b),

7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 814, 815

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 816, 817

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

§ 818. Public lands included in project; reservation of lands from entry

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 820. Proceedings for revocation of license or to prevent violations of license

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

§ 823a. Conduit hydroelectric facilities

(a) Exemption qualifications

Except as provided in subsection (b) or (c) of this section, the Commission may grant an exemption in whole or in part from the requirements of this part, including any license requirements contained in this part, to any facility (not including any dam or other impoundment) constructed, operated, or maintained for the generation of electric power which the Commission determines, by rule or order—

(1) is located on non-Federal lands, and

(2) utilizes for such generation only the hydroelectric potential of a manmade conduit, which is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.

(b) Facilities with installation capacity greater than 15 megawatts

The Commission may not grant any exemption under subsection (a) of this section to any facility the installed capacity of which exceeds 15 megawatts.

(c) Consultation with Federal and state agencies

In making the determination under subsection (a) of this section the Commission shall consult with the United States Fish and Wildlife Service and the State agency exercising administration over the fish and wildlife resources of the State in which the facility is or will be located, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

(1) such terms and conditions as the Fish and Wildlife Service and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

(2) such terms and conditions as the Commission deems appropriate to insure that such facility continues to comply with the provisions of this section and terms and conditions included in any such exemption.

(d) Violation of terms of exemption

Any violation of a term or condition of any exemption granted under subsection (a) of this section shall be treated as a violation of a rule or order of the Commission under this chapter.

(June 10, 1920, ch. 285, § 30, as added Pub. L. 95-617, title II, § 213, Nov. 9, 1978, 92 Stat. 3148.)

REFERENCES IN TEXT

The Fish and Wildlife Coordination Act, referred to in subsec. (c), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

SUBCHAPTER II—REGULATION OF ELECTRIC UTILITY COMPANIES ENGAGED IN INTERSTATE COMMERCE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 824a-3 of this title; title 42 section 7172; title 43 section 1761.

§ 824. Declaration of policy; application of subchapter

[*See main edition for text of* (a)]

(b) Use or sale of electric energy in interstate commerce

(1) The provisions of this subchapter shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce, but except as provided in paragraph (2) shall not apply to any other sale of electric energy or deprive a State or State commission of its lawful authority now exercised over the exportation of hydroelectric energy which is transmitted across a State line. The Commission shall have jurisdiction over all facilities for such transmission or sale of electric energy, but shall not have jurisdiction, except as specifically provided in this subchapter and subchapter III of this chapter, over facilities used for the generation of electric energy or over facilities used in local distribution or only for the transmission

of electric energy in intrastate commerce, or over facilities for the transmission of electric energy consumed wholly by the transmitter.

(2) The provisions of sections 824i, 824j, and 824k of this title shall apply to the entities described in such provisions, and such entities shall be subject to the jurisdiction of the Commission for purposes of carrying out such provisions and for purposes of applying the enforcement authorities of this chapter with respect to such provisions. Compliance with any order of the Commission under the provisions of section 824i or 824j of this title, shall not make an electric utility or other entity subject to the jurisdiction of the Commission for any purposes other than the purposes specified in the preceding sentence.

[See main edition for text of (c) and (d)]

(e) "Public utility" defined

The term "public utility" when used in this subchapter and subchapter III of this chapter means any person who owns or operates facilities subject to the jurisdiction of the Commission under this subchapter (other than facilities subject to such jurisdiction solely by reason of section 824i, 824j, or 824k of this title).

[See main edition for text of (f)]

(As amended Nov. 9, 1978, Pub. L. 95-617, title II, 204(b), 92 Stat. 3140.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-617, § 204(b)(1), designated existing provisions as par. (1) and, in par. (1) as so designated, inserted "except as provided in paragraph (2)" following "in interstate commerce, but" and added par. (2).

Subsec. (e). Pub. L. 95-617, § 204(b)(2), inserted "(other than facilities subject to such jurisdiction solely by reason of section 824i, 824j, or 824k of this title)" following "under this subchapter".

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to the establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on contruction work in progress under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(B) and 7293 of Title 42, The Public Health and Welfare.

PRIOR ACTIONS; EFFECT ON OTHER AUTHORITIES

Section 214 of Pub. L. 95-617 provided that:

"(a) Prior Actions.—No provision of this title [which enacted sections 823a, 824i to 824k, 824a-1 to 824a-3 and 825q-1 of this title, amended sections 796, 824, 824a, 824d, and 825d of this title and enacted provisions set out as notes under sections 824a, 824d, and 825d of this title] or of any amendment made by this title shall apply to, or affect, any action taken by the Commission before the date of the enactment of this Act [Nov. 9, 1978].

"(b) Other Authorities.—No provision of this title [which enacted sections 823a, 824i to 824k, 824a-1 to 824a-3 and 825q-1 of this title, amended sections 796, 824, 824a, 824d, and 825d of this title and enacted provisions set out as notes under sections 824a, 824d, and 825d of this title] or of any amendment made by this title shall limit, impair or otherwise affect any authority of the Commission or any other agency or instrumentality of the United States under any other provision of law except as specifically provided in this title."

§ 824a. Interconnection and coordination of facilities; emergencies; transmission to foreign countries

[See main edition for text of (a) to (f)]

(g) Continuance of service

In order to insure continuity of service to customers of public utilities, the Commission shall require, by rule, each public utility to—

(1) report promptly to the Commission and any appropriate State regulatory authorities any anticipated shortage of electric energy or capacity which would affect such utility's capability of serving its wholesale customers,

(2) submit to the Commission, and to any appropriate State regulatory authority, and periodically revise, contingency plans respecting—

(A) shortages of electric energy or capacity, and

(B) circumstances which may result in such shortages, and

(3) accommodate any such shortages or circumstances in a manner which shall—

(A) give due consideration to the public health, safety, and welfare, and

(B) provide that all persons served directly or indirectly by such public utility will be treated, without undue prejudice or disadvantage.

(As amended Nov. 9, 1978, Pub. L. 95-617, title II, § 206(a), 92 Stat. 3141.)

AMENDMENTS

1978—Subsec. (g). Pub. L. 95-617 added subsec. (g).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 206(b) of Pub. L. 95-617 provided that: "The amendment made by subsection (a) [adding subsec. (g) of this section] shall not affect any proceeding of the Commission pending on the date of the enactment of this Act [Nov. 9, 1978] or any case pending on such date respecting a proceeding of the Commission."

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to the establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on construction work in progress under this subchapter and interconnection, under this section, of facilities for the generation, transmission, and sale of electric energy, other than emergency interconnection, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(B) and 7293 of Title 42, The Public Health and Welfare.

PERFORMANCE OF FUNCTIONS RESPECTING ELECTRIC POWER AND NATURAL GAS FACILITIES LOCATED ON UNITED STATES BORDERS

For provisions relating to the performance of functions by the Secretary of Energy respecting electric power and natural gas facilities located on United States borders, see Ex. Ord. No. 10485, Sept. 8, 1953, 18 F.R. 5397, as amended by Ex. Ord. No. 12038, Feb. 3, 1978, 43 F.R. 4957, set out as a note under section 717b of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824a-1, 824a-2, 824a-4 of this title; title 42 section 7172.

§ 824a-1. Pooling

(a) State laws

The Commission may, on its own motion, and shall, on application of any person or governmental entity, after public notice and notice to the Governor of the affected State and after affording an opportunity for public hearing, exempt electric utilities, in whole or in part, from any provision of State law, or from any State rule or regulation, which prohibits or prevents the voluntary coordination of electric utilities, including any agreement for central dispatch, if the Commission determines that such voluntary coordination is designed to obtain economical utilization of facilities and resources in any area. No such exemption may be granted if the Commission finds that such provision of State law, or rule or regulation—

(1) is required by any authority of Federal law, or

(2) is designed to protect public health, safety, or welfare, or the environment or conserve energy or is designed to mitigate the effects of emergencies resulting from fuel shortages.

(b) Pooling study

(1) The Commission, in consultation with the reliability councils established under section 202(a) of the Federal Power Act [16 U.S.C. 824a], the Secretary, and the electric utility industry shall study the opportunities for—

(A) conservation of energy,

(B) optimization in the efficiency of use of facilities and resources, and

(C) increased reliability,

through pooling arrangements. Not later than 18 months after November 9, 1978, the Commission shall submit a report containing the results of such study to the President and the Congress.

(2) The Commission may recommend to electric utilities that such utilities should voluntarily enter into negotiations where the opportunities referred to in paragraph (1) exist. The Commission shall report annually to the President and the Congress regarding any such recommendations and subsequent actions taken by electric utilities, by the Commission, and by the Secretary under this Act, the Federal Power Act [16 U.S.C. 791a et seq.], and any other provision of law. Such annual reports shall be included in the Commission's annual report required under the Department of Energy Organization Act [42 U.S.C. 7101 et seq.].

(Pub. L. 95-617, title II, § 205, Nov. 9, 1978, 92 Stat. 3140.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(2), means Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, known as the "Public Utility Regulatory Policies Act of 1978". For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Federal Power Act, referred to in subsec. (b)(2), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to this chapter. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Department of Energy Organization Act, referred to in subsec. (b)(2), is Pub. L. 95-91, Aug. 4, 1977, 91 Stat. 565, as amended, which is classified principally to chapter 84 (§ 7101 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 7101 of Title 42 and Tables.

CODIFICATION

Section is a part of the Public Utility Regulatory Policies Act of 1978, and not a part of the Federal Power Act which generally comprises this chapter.

§ 824a-2. Reliability

(a) Study

(1) The Secretary, in consultation with the Commission, shall conduct a study with respect to—

(A) the level of reliability appropriate to adequately serve the needs of electric consumers, taking into account cost effectiveness and the need for energy conservation,

(B) the various methods which could be used in order to achieve such level of reliability and the cost effectiveness of such methods, and

(C) the various procedures that might be used in case of an emergency outage to minimize the public disruption and economic loss that might be caused by such an outage and the cost effectiveness of such procedures.

Such study shall be completed and submitted to the President and the Congress not later than 18 months after November 9, 1978. Before such submittal the Secretary shall provide an opportunity for public comment on the results of such study.

(2) The study under paragraph (1) shall include consideration of the following:

(A) the cost effectiveness of investments in each of the components involved in providing adequate and reliable electric service, including generation, transmission, and distribution facilities, and devices available to the electric consumer;

(B) the environmental and other effects of the investments considered under subparagraph (A);

(C) various types of electric utility systems in terms of generation, transmission, distribution and customer mix, the extent to which differences in reliability levels may be desirable, and the cost-effectiveness of the various methods which could be used to decrease the number and severity of any outages among the various types of systems;

(D) alternatives to adding new generation facilities to achieve such desired levels of reliability (including conservation);

(E) the cost-effectiveness of adding a number of small, decentralized conventional and nonconventional generating units rather than a small number of large generating units with a similar total megawatt capacity for achieving the desired level of reliability; and

(F) any standards for electric utility reliability used by, or suggested for use by, the electric utility industry in terms of cost-effectiveness in achieving the desired level of reliability, including equipment standards, standards for operating procedures and training of personnel, and standards relating the number and severity of outages to periods of time.

(b) Examination of reliability issues by reliability councils

The Secretary, in consultation with the Commission, may, from time to time, request the reliability councils established under section 202(a) of the Federal Power Act [16 U.S.C. 824a(a) of this title] or other appropriate persons (including Federal agencies) to examine and report to him concerning any electric utility reliability issue. The Secretary shall report to the Congress (in its annual report or in the report required under subsection (a) of this section if appropriate) the results of any examination under the preceding sentence.

(c) Department of Energy recommendations

The Secretary, in consultation with the Commission, and after opportunity for public comment, may recommend industry standards for reliability to the electric utility industry, including standards with respect to equipment, operating procedures and training of personnel, and standards relating to the level or levels of reliability appropriate to adequately and reliably serve the needs of electric consumers. The Secretary shall include in his annual report—

(1) any recommendations made under this subsection or any recommendations respecting electric utility reliability problems under any other provision of law, and

(2) a description of actions taken by electric utilities with respect to such recommendations.

(Pub. L. 95-617, title II, § 209, Nov. 9, 1978, 92 Stat. 3143.)

CODIFICATION

Section is a part of the Public Utility Regulatory Policies Act of 1978, and not a part of the Federal Power Act which generally comprises this chapter.

§ 824a-3. Cogeneration and small power production

(a) Cogeneration and small power production rules

Not later than 1 year after November 9, 1978, the Commission shall prescribe, and from time to time thereafter revise, such rules as it determines necessary to encourage cogeneration and small power production which rules require electric utilities to offer to—

(1) sell electric energy to qualifying cogeneration facilities and qualifying small power production facilities and

(2) purchase electric energy from such facilities.

Such rules shall be prescribed, after consultation with representatives of Federal and State regulatory agencies having ratemaking authority for electric utilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments. Such rules shall include provisions respecting minimum reliability of qualifying cogeneration facilities and qualifying small power production facilities (including reliability of such facilities during emergencies) and rules respecting reliability of electric energy service to be available to such facilities from electric utilities during emergencies. Such rules may not authorize a qualifying cogeneration facility or qualifying small power production facility to make any sale for purposes other than resale.

(b) Rates for purchases by electric utilities

The rules prescribed under subsection (a) of this section shall insure that, in requiring any electric utility to offer to purchase electric energy from any qualifying cogeneration facility or qualifying small power production facility, the rates for such purchase—

(1) shall be just and reasonable to the electric consumers of the electric utility and in the public interest, and

(2) shall not discriminate against qualifying cogenerators or qualifying small power producers.

No such rule prescribed under subsection (a) of this section shall provide for a rate which exceeds the incremental cost to the electric utility of alternative electric energy.

(c) Rates for sales by utilities

The rules prescribed under subsection (a) of this section shall insure that, in requiring any electric utility to offer to sell electric energy to any qualifying cogeneration facility or qualifying small power production facility, the rates for such sale—

(1) shall be just and reasonable and in the public interest, and

(2) shall not discriminate against the qualifying cogenerators or qualifying small power producers.

(d) Definition

For purposes of this section, the term "incremental cost of alternative electric energy" means, with respect to electric energy purchased from a qualifying cogenerator or qualifying small power producer, the cost to the electric utility of the electric energy which, but for the purchase from such cogenerator or small power producer, such utility would generate or purchase from another source.

(e) Exemptions

(1) Not later than 1 year after November 9, 1978, and from time to time thereafter, the Commission shall, after consultation with representatives of State regulatory authorities, electric utilities, owners of cogeneration facilities and owners of small power production facilities, and after public notice and a reasonable opportunity for interested persons (including State and Federal agencies) to submit oral as well as written data, views, and arguments, prescribe rules under which qualifying cogeneration facilities and qualifying small power production facilities are exempted in whole or part from the Federal Power Act [16 U.S.C. 791a et seq.], from the Public Utility Holding Company Act [15 U.S.C. 79 et seq.], from State laws and regulations respecting the rates, or respecting the financial or organizational regulation, of electric utilities, or from any combination of the foregoing, if the Commission determines such exemption is necessary to encourage cogeneration and small power production.

(2) No qualifying small power production facility which has a power production capacity which, together with any other facilities located at the same site (as determined by the Commission), exceeds 30 megawatts may be exempt-

ed under rules under paragraph (1) from any provision of law or regulation referred to in paragraph (1), except that any qualifying small power production facility which produces electric energy solely by the use of biomass as a primary energy source, may be exempted by the Commission under such rules from the Public Utility Holding Company Act [15 U.S.C. 79 et seq.] and from State laws and regulations referred to in such paragraph (1).

(3) No qualifying small power production facility or qualifying cogeneration facility may be exempted under this subsection from—

(A) any State law or regulation in effect in a State pursuant to subsection (f) of this section,

(B) the provisions of section 210, 211, or 212 of the Federal Power Act [16 U.S.C. 824i, 824j, or 824k] or the necessary authorities for enforcement of any such provision under the Federal Power Act [16 U.S.C. 791a et seq.], or

(C) any license or permit requirement under part I of the Federal Power Act [16 U.S.C. 791a et seq.] any provision under such Act related to such a license or permit requirement, or the necessary authorities for enforcement of any such requirement.

(f) Implementation of rules for qualifying cogeneration and qualifying small power production facilities

(1) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) of this section or revised under such subsection, each State regulatory authority shall, after notice and opportunity for public hearing, implement such rule (or revised rule) for each electric utility for which it has ratemaking authority.

(2) Beginning on or before the date one year after any rule is prescribed by the Commission under subsection (a) of this section or revised under such subsection, each nonregulated electric utility shall, after notice and opportunity for public hearing, implement such rule (or revised rule).

(g) Judicial review and enforcement

(1) Judicial review may be obtained respecting any proceeding conducted by a State regulatory authority or nonregulated electric utility for purposes of implementing any requirement of a rule under subsection (a) of this section in the same manner, and under the same requirements, as judicial review may be obtained under section 2633 of this title in the case of a proceeding to which section 2633 of this title applies.

(2) Any person (including the Secretary) may bring an action against any electric utility, qualifying small power producer, or qualifying cogenerator to enforce any requirement established by a State regulatory authority or nonregulated electric utility pursuant to subsection (f) of this section. Any such action shall be brought only in the manner, and under the requirements, as provided under section 2633 of this title with respect to an action to which section 2633 of this title applies.

(h) Commission enforcement

(1) For purposes of enforcement of any rule prescribed by the Commission under subsection (a) of this section with respect to any operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility which are subject to the jurisdiction of the Commission under part II of the Federal Power Act [16 U.S.C. 824 et seq.], such rule shall be treated as a rule under the Federal Power Act [16 U.S.C. 791a et seq.]. Nothing in subsection (g) of this section shall apply to so much of the operations of an electric utility, a qualifying cogeneration facility or a qualifying small power production facility as are subject to the jurisdiction of the Commission under part II of the Federal Power Act.

(2)(A) The Commission may enforce the requirements of subsection (f) of this section against any State regulatory authority or nonregulated electric utility. For purposes of any such enforcement, the requirements of subsection (f)(1) of this section shall be treated as a rule enforceable under the Federal Power Act [16 U.S.C. 791a et seq.]. For purposes of any such action, a State regulatory authority or nonregulated electric utility shall be treated as a person within the meaning of the Federal Power Act. No enforcement action may be brought by the Commission under this section other than—

(i) an action against the State regulatory authority or nonregulated electric utility for failure to comply with the requirements of subsection (f) of this section or

(ii) an action under paragraph (1).

(B) Any electric utility, qualifying cogenerator, or qualifying small power producer may petition the Commission to enforce the requirements of subsection (f) of this section as provided in subparagraph (A) of this paragraph. If the Commission does not initiate an enforcement action under subparagraph (A) against a State regulatory authority or nonregulated electric utility within 60 days following the date on which a petition is filed under this subparagraph with respect to such authority, the petitioner may bring an action in the appropriate United States district court to require such State regulatory authority or nonregulated electric utility to comply with such requirements, and such court may issue such injunctive or other relief as may be appropriate. The Commission may intervene as a matter of right in any such action.

(i) Federal contracts

No contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into after November 9, 1978, may contain any provision which will have the effect of preventing the implementation of any rule under this section with respect to such utility. Any provision in any such contract which has such effect shall be null and void.

(j) Definitions

For purposes of this section, the terms "small power production facility", "qualifying small power production facility", "qualifying small power producer", "primary energy source", "cogeneration facility", "qualifying cogeneration facility", and "qualifying cogenerator" have the respective meanings provided for such terms

under section 3(17) and (18) of the Federal Power Act [16 U.S.C. 796(17), (18)].

(Pub. L. 95-617, title II, § 210, Nov. 9, 1978, 92 Stat. 3144.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (e) and (h), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to this chapter (§ 791a et seq.). Part I of the Federal Power Act is classified generally to subchapter I (§ 791a et seq.) of this chapter. Part II of the Federal Power Act is classified generally to this subchapter (§ 824 et seq.). For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Public Utility Holding Company Act, referred to in subsec. (e), probably means the Public Utility Holding Company Act of 1935, act Aug. 26, 1935, ch. 687, title I, 49 Stat. 838, as amended, which is classified generally to chapter 2C (§ 79 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 79 of Title 15 and Tables.

CODIFICATION

Section is a part of the Public Utility Regulatory Policies Act of 1978, and not a part of the Federal Power Act which generally comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 6807.

§ 824a-4. Seasonal diversity electricity exchange

(a) Authority

The Secretary may acquire rights-of-way by purchase, including eminent domain, through North Dakota, South Dakota, and Nebraska for transmission facilities for the seasonal diversity exchange of electric power to and from Canada if he determines—

(1) after opportunity for public hearing—

(A) that the exchange is in the public interest and would further the purposes referred to in section 2611(1) and (2) of this title and that the acquisition of such rights-of-way and the construction and operation of such transmission facilities for such purposes is otherwise in the public interest,

(B) that a permit has been issued in accordance with subsection (b) of this section for such construction, operation, maintenance, and connection of the facilities at the border for the transmission of electric energy between the United States and Canada as is necessary for such exchange of electric power, and

(C) that each affected State has approved the portion of the transmission route located in each State in accordance with applicable State law, or if there is no such applicable State law in such State, the Governor has approved such portion; and

(2) after consultation with the Secretary of the Interior and the heads of other affected Federal agencies, that the Secretary of the Interior and the heads of such,[1] other agencies concur in writing in the location of such portion of the transmission facilities as crosses Federal land under the jurisdiction of such Secretary or such other Federal agency, as the case may be.

The Secretary shall provide to any State such cooperation and technical assistance as the State may request and as he determines appropriate in the selection of a transmission route. If the transmission route approved by any State does not appear to be feasible and in the public interest, the Secretary shall encourage such State to review such route and to develop a route that is feasible and in the public interest. Any exercise by the Secretary of the power of eminent domain under this section shall be in accordance with other applicable provisions of Federal law. The Secretary shall provide public notice of his intention to acquire any right-of-way before exercising such power of eminent domain with respect to such right-of-way.

(b) Permit

Notwithstanding any transfer of functions under the first sentence of section 301(b) of the Department of Energy Organization Act [42 U.S.C. 7151(b)], no permit referred to in subsection (a)(1)(B) may be issued unless the Commission has conducted hearings and made the findings required under section 202(e) of the Federal Power Act [16 U.S.C. 824a(e)] and under the applicable execution order respecting the construction, operation, maintenance, or connection at the borders of the United States of facilities for the transmission of electric energy between the United States and a foreign country. Any finding of the Commission under an applicable executive order referred to in this subsection shall be treated for purposes of judicial review as an order issued under section 202(e) of the Federal Power Act.

(c) Timely acquisition by other means

The Secretary may not acquire any rights-of-day[1] under this section unless he determines that the holder or holders of a permit referred to in subsection (a)(1)(B) of this section are unable to acquire such rights-of-way under State condemnation authority, or after reasonable opportunity for negotiation, without unreasonably delaying construction, taking into consideration the impact of such delay on completion of the facilities in a timely fashion.

(d) Payments by permittees

(1) The property interest acquired by the Secretary under this section (whether by eminent domain or other purchase) shall be transferred by the Secretary to the holder of a permit referred to in subsection (b) of this section if such holder has made payment to the Secretary of the entire costs of the acquisition of such property interest, including administrative costs. The Secretary may accept, and expend, for purposes of such acquisition, amounts from any such person before acquiring a property interest to be transferred to such person under this section.

(2) If no payment is made by a permit holder under paragraph (1), within a reasonable time, the Secretary shall offer such rights-of-way to the original owner for reacquisition at the original price paid by the Secretary. If such original owner refuses to reacquire such property after a reasonable period, the Secretary shall dispose

[1] So in original. Comma probably should be deleted.

[1] So in original. Probably should be "rights-of-way".

of such property in accordance with applicable provisions of law governing disposal of property of the United States.

(e) Federal law governing Federal lands

This section shall not affect any Federal law governing Federal lands.

(f) Reports

The Secretary shall report annually to the Congress on the actions, if any, taken pursuant to this section.

(Pub. L. 95-617, title VI, § 602, Nov. 9, 1978, 92 Stat. 3164.)

CODIFICATION

Section is a part of the Public Utility Regulatory Policies Act of 1978, and not a part of the Federal Power Act which generally comprises this chapter.

§§ 824b, 824c

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to the establishment, review, and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on contruction work in progress under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(B) and 7293 of title 42, The Public Health and Welfare.

§ 824d. Rates and charges; schedules; suspension of new rates; automatic adjustment clauses

[*See main edition for text of* (a) *to* (c)]

(d) Notice required for rate changes

Unless the Commission otherwise orders, no change shall be made by any public utility in any such rate, charge, classification, or service, or in any rule, regulation, or contract relating thereto, except after sixty days' notice to the Commission and to the public. Such notice shall be given by filing with the Commission and keeping open for public inspection new schedules stating plainly the change or changes to be made in the schedule or schedules then in force and the time when the change or changes will go into effect. The Commission, for good cause shown, may allow changes to take effect without requiring the sixty days' notice herein provided for by an order specifying the changes so to be made and the time when they shall take effect and the manner in which they shall be filed and published.

[*See main edition for text of* (e)]

(f) Review of automatic adjustment clauses and public utility practices; action by Commission; definition

(1) Not later than 2 years after November 9, 1978, and not less often than every 4 years thereafter, the Commission shall make a thorough review of automatic adjustment clauses in public utility rate schedules to examine—

(A) whether or not each such clause effectively provides incentives for efficient use of resources (including economical purchase and use of fuel and electric energy), and

(B) whether any such clause reflects any costs other than costs which are—

(i) subject to periodic fluctuations and

(ii) not susceptible to precise determinations in rate cases prior to the time such costs are incurred.

Such review may take place in individual rate proceedings or in generic or other separate proceedings applicable to one or more utilities.

(2) Not less frequently than every 2 years, in rate proceedings or in generic or other separate proceedings, the Commission shall review, with respect to each public utility, practices under any automatic adjustment clauses of such utility to insure efficient use of resources (including economical purchase and use of fuel and electric energy) under such clauses.

(3) The Commission may, on its own motion or upon complaint, after an opportunity for an evidentiary hearing, order a public utility to—

(A) modify the terms and provisions of any automatic adjustment clause, or

(B) cease any practice in connection with the clause,

if such clause or practice does not result in the economical purchase and use of fuel, electric energy, or other items, the cost of which is included in any rate schedule under an automatic adjustment clause.

(4) As used in this subsection, the term "automatic adjustment clause" means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include any rate which takes effect subject to refund and subject to a later determination of the appropriate amount of such rate.

(As amended Nov. 9, 1978, Pub. L. 95-617, title II, §§ 207(a), 208, 92 Stat. 3142.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-617, § 207(a), substituted "sixty" for "thirty" in two places.

Subsec. (f). Pub. L. 95-617, § 208, added subsec. (f).

STUDY OF ELECTRIC RATE INCREASES UNDER FEDERAL POWER ACT

Section 207(b) of Pub. L. 95-617 provided that: "The chairman of the Federal Energy Regulatory Commission, in consultation with the Secretary, is directed to conduct a study of the legal requirements and administrative procedures involved in the consideration and resolution of proposed wholesale electric rate increases under the Federal Power Act [section 791a et seq. of this title] for the purposes of (1) providing for expeditious handling of hearings consistent with due process, (2) preventing the imposition of successive rate increases before they have been determined by the Commission to be just and reasonable and otherwise lawful, and (3) improving procedures designed to prohibit anticompetitive or unreasonable differences in wholesale and retail rates, or both. The chairman shall report to Congress within nine months from the date of enactment of this Act [Nov. 9, 1978] on the results of the study required under this section, on the administrative actions taken as a result of this study, and on any recommendations for changes in existing law that will aid the purposes of this section."

§§ 824e to 824h

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to the establishment, review,

and enforcement of rates and charges for the transmission or sale of electric energy, including determinations on construction work in progress under this subchapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(B) and 7293 of title 42, The Public Health and Welfare.

§ 824i. Interconnection authority

(a) Powers of Commission; application by State regulatory authority

(1) Upon application of any electric utility, Federal power marketing agency, qualifying cogenerator, or qualifying small power producer, the Commission may issue an order requiring—

(A) the physical connection of any cogeneration facility, any small power production facility, or the transmission facilities of any electric utility, with the facilities of such applicant,

(B) such action as may be necessary to make effective any physical connection described in subparagraph (A), which physical connection is ineffective for any reason, such as inadequate size, poor maintenance, or physical unreliability,

(C) such sale or exchange of electric energy or other coordination, as may be necessary to carry out the purposes of any order under subparagraph (A) or (B), or

(D) such increase in transmission capacity as may be necessary to carry out the purposes of any order under subparagraph (A) or (B).

(2) Any State regulatory authority may apply to the Commission for an order for any action referred to in subparagraph (A), (B), (C), or (D) of paragraph (1). No such order may be issued by the Commission with respect to a Federal power marketing agency upon application of a State regulatory authority.

(b) Notice, hearing and determination by Commission

Upon receipt of an application under subsection (a) of this section, the Commission shall—

(1) issue notice to each affected State regulatory authority, each affected electric utility, each affected Federal power marketing agency, each affected owner or operator of a cogeneration facility or of a small power production facility, and to the public.

(2) afford an opportunity for an evidentiary hearing, and

(3) make a determination with respect to the matters referred to in subsection (c) of this section.

(c) Necessary findings

No order may be issued by the Commission under subsection (a) of this section unless the Commission determines that such order—

(1) is in the public interest,

(2) would—

(A) encourage overall conservation of energy or capital,

(B) optimize the efficiency of use of facilities and resources, or

(C) improve the reliability of any electric utility system or Federal power marketing agency to which the order applies, and

(3) meets the requirements of section 824k of this title.

(d) Motion of Commission

The Commission may, on its own motion, after compliance with the requirements of paragraphs (1) and (2) of subsection (b) of this section, issue an order requiring any action described in subsection (a)(1) of this section if the Commission determines that such order meets the requirements of subsection (c) of this section. No such order may be issued upon the Commission's own motion with respect to a Federal power marketing agency.

(e) Definitions

(1) As used in this section, the term "facilities" means only facilities used for the generation or transmission of electric energy.

(2) With respect to an order issued pursuant to an application of a qualifying cogenerator or qualifying small power producer under subsection (a)(1) of this section, the term "facilities of such applicant" means the qualifying cogeneration facilities or qualifying small power production facilities of the applicant, as specified in the application. With respect to an order issued pursuant to an application under subsection (a)(2) of this section, the term "facilities of such applicant" means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the application. With respect to an order issued by the Commission on its own motion under subsection (d) of this section, such term means the qualifying cogeneration facilities, qualifying small power production facilities, or the transmission facilities of an electric utility, as specified in the proposed order.

(June 10, 1920, ch. 285, § 210, as added Pub. L. 95-617, title II, § 202, Nov. 9, 1978, 92 Stat. 3135.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824, 824a-3, 824k of this title.

§ 824j. Wheeling authority

(a) Transmission service by any electric utility; notice, hearing and findings by Commission

Any electric utility or Federal power marketing agency may apply to the Commission for an order under this subsection requiring any other electric utility to provide transmission services to the applicant (including any enlargement of transmission capacity necessary to provide such services). Upon receipt of such application, after public notice and notice to each affected State regulatory authority, each affected electric utility, and each affected Federal power marketing agency, and after affording an opportunity for an evidentiary hearing, the Commission may issue such order if it finds that such order—

(1) is in the public interest,

(2) would—

(A) conserve a significant amount of energy,

(B) significantly promote the efficient use of facilities and resources, or

(C) improve the reliability of any electric utility system to which the order applies, and

(3) meets the requirements of section 824k of this title.

(b) Transmission service by sellers of electric energy for resale; notice, hearing and determinations by Commission

Any electric utility, or Federal power marketing agency, which purchases electric energy for resale from any other electric utility may apply to the Commission for an order under this subsection requiring such other electric utility to provide transmission services to the applicant (including any increase in transmission capacity necessary to provide such services). Upon receipt of an application under this subsection, after public notice and notice to each affected State regulatory authority, each affected electric utility, and each affected Federal power marketing agency, and after affording an opportunity for an evidentiary hearing, the Commission may issue such an order if the Commission determines that—

(1) such other electric utility has given actual or constructive notice that it is unwilling or unable to provide electric service to the applicant and has been requested by the applicant to provide the transmission services requested in the application under this subsection, and

(2) such order meets the requirements of section 824k of this title.

(c) Preservation of competitive relationships; replacement of electric energy; inconsistent state laws

(1) No order may be issued under subsection (a) of this section unless the Commission determines that such order would reasonably preserve existing competitive relationships.

(2) No order may be issued under subsection (a) or (b) of this section which requires the electric utility subject to the order to transmit, during any period, an amount of electric energy which replaces any amount of electric energy—

(A) required to be provided to such applicant pursuant to a contract during such period, or

(B) currently provided to the applicant by the utility subject to the order pursuant to a rate schedule on file during such period with the Commission.

(3) No order may be issued under the authority of subsection (a) or (b) of this section which is inconsistent with any State law which governs the retail marketing areas of electric utilities.

(4) No order may be issued under subsection (a) or (b) of this section which provides for the transmission of electric energy directly to an ultimate consumer.

(d) Termination or modification or order; notice, hearing and findings of Commission; contents of order; inclusion in order of terms and conditions agreed upon by parties

(1) Any electric utility ordered under subsection (a) or (b) of this section to provide transmission services may apply to the Commission for an order permitting such electric utility to cease providing all, or any portion of, such services. After public notice, notice to each affected State regulatory authority, each affected Federal power marketing agency, and each affected electric utility, and after an opportunity for an evidentiary hearing, the Commission shall issue an order terminating or modifying the order issued under subsection (a) or (b) of this section, if the electric utility providing such transmission services has demonstrated, and the Commission has found, that—

(A) due to changed circumstances, the requirements applicable, under this section and section 824k of this title, to the issuance of an order under subsection (a) or (b) of this section are no longer met, or

(B) any transmission capacity of the utility providing transmission services under such order which was, at the time such order was issued, in excess of the capacity necessary to serve its own customers is no longer in excess of the capacity necessary for such purposes.

No order shall be issued under this subsection pursuant to a finding under subparagraph (A) unless the Commission finds that such order is in the public interest.

(2) Any order issued under this subsection terminating or modifying an order issued under subsection (a) or (b) of this section shall—

(A) provide for any appropriate compensation, and

(B) provide the affected electric utilities adequate opportunity and time to—

(i) make suitable alternative arrangements for any transmission services terminated or modified, and

(ii) insure that the interests of ratepayers of such utilities are adequately protected.

(3) No order may be issued under this subsection terminating or modifying any order issued under subsection (a) or (b) of this section if the order under subsection (a) or (b) of this section includes terms and conditions agreed upon by the parties which—

(A) fix a period during which transmission services are to be provided under the order under subsection (a) or (b) of this section, or

(B) otherwise provide procedures or methods for terminating or modifying such order (including, if appropriate, the return of the transmission capacity when necessary to take into account an increase, after the issuance of such order, in the needs of the electric utility subject to such order for transmission capacity).

(e) Definitions

As used in this section, the term "facilities" means only facilities used for the generation or transmission of electric energy.

(June 10, 1920, ch. 285, § 211, as added Pub. L. 95-617, title II, § 203, Nov. 9, 1978, 92 Stat. 3136.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824, 824a-3, 824k of this title.

§ 824k. Orders requiring interconnection or wheeling

(a) Determinations by Commission

No order may be issued by the Commission under section 824i of this title or subsection (a) or (b) of section 824j of this title unless the Commission determines that such order—

(1) is not likely to result in a reasonably ascertainable uncompensated economic loss for any electric utility, qualifying cogenerator, or qualifying small power producer, as the case may be, affected by the order;

(2) will not place an undue burden on an electric utility, qualifying cogenerator, or qualifying small power producer, as the case may be, affected by the order;

(3) will not unreasonably impair the reliability of any electric utility affected by the order; and

(4) will not impair the ability of any electric utility affected by the order to render adequate service to its customers.

The determination under paragraph (1) shall be based upon a showing of the parties. The Commission shall have no authority under section 824i or 824j of this title to compel the enlargement of generating facilities.

(b) Reimbursement of parties subject to orders

No order may be issued under section 824i of this title or subsection (a) or (b) of section 824j of this title unless the applicant for such order demonstrates that he is ready, willing, and able to reimburse the party subject to such order for—

(1) in the case of an order under section 824i of this title, such party's share of the reasonably anticipated costs incurred under such order, and

(2) in the case of an order under subsection (a) or (b) of section 824j of this title—

(A) the reasonable costs of transmission services, including the costs of any enlargement of transmission facilities, and

(B) a reasonable rate of return on such costs, as appropriate, as determined by the Commission.

(c) Issuance of proposed order; agreement by parties to terms and conditions of order; approval by Commission; inclusion in final order; failure to agree

(1) Before issuing an order under section 824i of this title or subsection (a) or (b) of section 824j of this title, the Commission shall issue a proposed order and set a reasonable time for parties to the proposed interconnection or transmission order to agree to terms and conditions under which such order is to be carried out, including the apportionment of costs between them and the compensation or reimbursement reasonably due to any of them. Such proposed order shall not be reviewable or enforceable in any court. The time set for such parties to agree to such terms and conditions may be shortened if the Commission determines that delay would jeopardize the attainment of the purposes of any proposed order. Any terms and conditions agreed to by the parties shall be subject to the approval of the Commission.

(2)(A) If the parties agree as provided in paragraph (1) within the time set by the Commission and the Commission approves such agreement, the terms and conditions shall be included in the final order. In the case of an order under section 824i of this title, if the parties fail to agree within the time set by the Commission or if the Commission does not approve any such agreement, the Commission shall prescribe such terms and conditions and include such terms and conditions in the final order.

(B) In the case of any order applied for under section 824j of this title, if the parties fail to agree within the time set by the Commission, the Commission shall prescribe such terms and conditions in the final order.

(d) Statement of reasons for denial

If the Commission does not issue any order applied for under section 824i or 824j of this title, the Commission shall, by order, deny such application and state the reasons for such denial.

(e) Utilization of interconnection or wheeling authority in lieu of other authority; limitation of Commission authority

No provision of section 824i or 824j of this title shall be treated—

(1) as requiring any person to utilize the authority of such section 824i or 824j of this title in lieu of any other authority of law, or

(2) as limiting, impairing, or otherwise affecting any authority of the Commission under any other provision of law.

(f) Effective date of order; hearing; notice; review

(1) No order under section 824i or 824j of this title requiring the Tennessee Valley Authority (hereinafter in this subsection referred to as the "TVA") to take any action shall take effect for 60 days following the date of issuance of the order. Within 60 days following the issuance by the Commission of any order under section 824i or of section 824j of this title requiring the TVA to enter into any contract for the sale or delivery of power, the Commission may on its own motion initiate, or upon petition of any aggrieved person shall initiate, an evidentiary hearing to determine whether or not such sale or delivery would result in violation of the third sentence of section 15d(a) of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831n–4), hereinafter in this subsection referred to as the TVA Act [16 U.S.C. 831 et seq.].

(2) Upon initiation of any evidentiary hearing under paragraph (1), the Commission shall give notice thereof to any applicant who applied for and obtained the order from the Commission, to any electric utility or other entity subject to such order, and to the public, and shall promptly make the determination referred to in paragraph (1). Upon initiation of such hearing, the Commission shall stay the effectiveness of the order under section 824i or 824j of this title until whichever of the following dates is applicable—

(A) the date on which there is a final determination (including any judicial review thereof under paragraph (3)) that no such violation would result from such order, or

(B) the date on which a specific authorization of the Congress (within the meaning of the third sentence of section 15d(a) of the TVA Act [16 U.S.C. 831n–4(a)]) takes effect.

(3) Any determination under paragraph (1) shall be reviewable only in the appropriate court of the United States upon petition filed by any aggrieved person or municipality within 60 days after such determination, and such

court shall have jurisdiction to grant appropriate relief. Any applicant who applied for and obtained the order under section 824i or 824j of this title, and any electric utility or other entity subject to such order shall have the right to intervene in any such proceeding in such court. Except for review by such court (and any appeal or other review by an appellate court of the United States), no court shall have jurisdiction to consider any action brought by any person to enjoin the carrying out of any order of the Commission under section 824i or section 824j of this title requiring the TVA to take any action on the grounds that such action requires a specific authorization of the Congress pursuant to the third sentence of section 15d(a) of the TVA Act [16 U.S.C. 831n-4(a)].

(June 10, 1920, ch. 285, § 212, as added Pub. L. 95-617, title II, § 204(a), Nov. 9, 1978, 92 Stat. 3138.)

REFERENCES IN TEXT

The TVA Act, referred to in subsec. (f)(1), means act May 18, 1933, ch. 32, 48 Stat. 58, as amended, known as the Tennessee Valley Authority Act of 1933, which is classified generally to chapter 12A (§ 831 et seq.) of this title. For complete classification of this Act to the Code, see section 831 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824, 824a-3, 824i, 824j of this title.

SUBCHAPTER III—LICENSEES AND PUBLIC UTILITIES; PROCEDURAL AND ADMINISTRATIVE PROVISIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 824 of this title; title 43 section 1761.

§ 825. Accounts and records

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 825b, 828b of this title; title 42 section 7172.

§ 825a. Rates of depreciation; notice to State authorities before fixing

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 825b, 828b of this title; title 42 section 7172.

§ 825b. Requirements applicable to agencies of United States

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 825c. Periodic and special reports; obstructing filing reports or keeping accounts, etc.

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., of the Federal Power Commission were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7177.

§ 825d. Officials dealing in securities; declaring dividends out of capital account; interlocking directorates; statement of prior positions; definitions

[*See main edition for text of (a) and (b)*]

(c)(1) On or before April 30 of each year, any person, who, during the calendar year preceding the filing date under this subsection, was an officer or director of a public utility and who held, during such calendar year, the position of officer, director, partner, appointee, or representative of any other entity listed in paragraph (2) shall file with the Commission, in such form and manner as the Commission shall by rule prescribe, a written statement concerning such positions held by such person. Such statement shall be available to the public.

(2) The entities listed for purposes of paragraph (1) are as follows—

(A) any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(B) any company, firm, or organization which is authorized by law to underwrite or participate in the marketing of securities of a public utility;

(C) any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(D) any company, firm, or organization which during any one of the 3 calendar years immediately preceding the filing date was one of the 20 purchasers of electric energy which purchased (for purposes other than for resale) one of the 20 largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three calendar years;

(E) any entity referred to in subsection (b) of this section; and

(F) any company, firm, or organization which is controlled by any company, firm, or organization referred to in this paragraph.

On or before January 31 of each calendar year, each public utility shall publish a list, pursuant to rules prescribed by the Commission, of the purchasers to which subparagraph (D) applies, for purposes of any filing under paragraph (1) of such calendar year.

(3) For purposes of this subsection—

(A) The term "public utility" includes any company which is a part of a holding company system which includes a registered holding company, unless no company in such system is an electric utility.

(B) The terms "holding company", "registered holding company", and "holding company system" have the same meaning as when used in the Public Utility Holding Company Act of 1935 [15 U.S.C. 79 et seq.].

(As amended Nov. 9, 1978, Pub. L. 95-617, title II, § 211(a), 92 Stat. 3147.)

REFERENCES IN TEXT

The Public Utility Holding Company Act of 1935, referred to in subsec. (c)(3)(B), is act Aug. 26, 1935, ch. 687, title I, 49 Stat. 838, as amended, which is classified generally to chapter 2C (§ 79 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 79 of Title 15 and Tables.

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-617 added subsec. (c).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 211(b) of Pub. L. 95-617 provided that: "No person shall be required to file a statement under section 305(c)(1) of the Federal Power Act [subsec. (c)(1) of this section] before April 30 of the second calendar year which begins after the date of the enactment of this Act [Nov. 9, 1978] and no public utility shall be required to publish a list under section 305(c)(2) of such Act [subsec. (c)(2) of this section] before January 31 of such second calendar year."

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to regulation of mergers and securities acquisitions under this chapter were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(F) and 7293 of Title 42, The Public Health and Welfare.

§ 825e. Complaints

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825f. Investigation by Commission

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825g. Hearings; rules of procedure

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825h. Administrative powers of Commission; rules, regulations, and orders

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825j. Investigations relating to electric energy; reports to Congress

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7177.

§ 825k. Publication and sale of reports

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 717m; title 39 section 3204; title 42 section 7172.

§ 825l. Review of orders

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291 and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 33 section 988; title 42 section 7172.

§ 825m. Enforcement provisions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825n. Forfeiture for violations; recovery

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 7172.

§ 825o. Penalties

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 811 of this title; title 42 section 7172.

§ 825p. Jurisdiction of offenses; enforcement of liabilities and duties

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 825q–1. Office of Public Participation

(a)(1) There shall be an office in the Commission to be known as the Office of Public Participation (hereinafter in this section referred to as the "Office").

(2)(A) The Office shall be administered by a Director. The Director shall be appointed by the Chairman with the approval of the Commission. The Director may be removed during his term of office by the Chairman, with the approval of the Commission, only for inefficiency, neglect of duty, or malfeasance in office.

(B) The term of office of the Director shall be 4 years. The Director shall be responsible for the discharge of the functions and duties of the Office. He shall be appointed and compensated at a rate not in excess of the maximum rate prescribed for GS–18 of the General Schedule under section 5332 of title 5.

(3) The Director may appoint, and assign the duties of, employees of such Office, and with the concurrence of the Commission he may fix the compensation of such employees and procure temporary and intermittent services to the same extent as is authorized under section 3109 of title 5.

(b)(1) The Director shall coordinate assistance to the public with respect to authorities exercised by the Commission. The Director shall also coordinate assistance available to persons intervening or participating or proposing to intervene or participate in proceedings before the Commission.

(2) The Commission may, under rules promulgated by it, provide compensation for reasonable attorney's fees, expert witness fees, and other costs of intervening or participating in any proceeding before the Commission to any person whose intervention or participation substantially contributed to the approval, in whole or in part, of a position advocated by such person. Such compensation may be paid only if the Commission has determined that—

(A) the proceeding is significant, and

(B) such person's intervention or participation in such proceeding without receipt of compensation constitutes a significant financial hardship to him.

(3) Nothing in this subsection affects or restricts any rights of any intervenor or participant under any other applicable law or rule of law.

(4) There are authorized to be appropriated to the Secretary of Energy to be used by the Office for purposes of compensation of persons under the provisions of this subsection not to exceed $500,000 for the fiscal year 1978, not to exceed $2,000,000 for the fiscal year 1979, not to exceed $2,200,000 for the fiscal year 1980, and not to exceed $2,400,000 for the fiscal year 1981.

(June 10, 1920, ch. 285, § 319, as added Pub. L. 95–617, title II, § 212, Nov. 9, 1978, 92 Stat. 3148.)

§ 825r. Separability of provisions

CODIFICATION

Section 319 of act June 10, 1920, ch. 285, as added Aug. 26, 1935, ch. 687, title II, § 213, 49 Stat. 863, cited as the credit to this section, was redesignated section 320 by Pub. L. 95–617, title II, § 212, Nov. 9, 1978, 92 Stat. 3148.

§ 825s. Sale of electric power from reservoir projects; rate schedules; preference in sale; construction of transmission lines; disposition of moneys

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior under this section were transferred to the Secretary of Energy by section 7152(a)(1) of Title 42, The Public Health and Welfare.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b),

7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 825s–1, 825s–2, 825s–3 of this title; title 42 section 7152.

§ 825s–3. Southwestern area sale at uniform systemwide rates of electric power over transmission lines constructed with appropriated funds or used under contractual arrangements

Power and energy marketed by the Southwestern Power Administration pursuant to section 825s of this title, shall be sold at uniform systemwide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual arrangements.

(Pub. L. 95–456, § 1, Oct. 13, 1978, 92 Stat. 1230.)

CODIFICATION

Section was not enacted as a part of the Federal Power Act, which generally comprises this chapter.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2 of Pub. L. 95–456 provided that: "This Act [enacting this section] shall not become effective until Contract No. 14-02-00001-1002, effective August 1, 1962, between the United States of America and Associated Electric Cooperative, Inc., Springfield, Missouri, has been amended in a manner mutually agreeable to the parties thereto."

SUBCHAPTER IV—STATE AND MUNICIPAL WATER CONSERVATION FACILITIES

§ 828b. Exemption from formula, books and records, and project cost statement requirements; annual charges

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 12A—TENNESSEE VALLEY AUTHORITY

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 824k of this title; title 7 section 904; title 28 section 1491; title 33 sections 558b, 558c.

§ 831b. Officers and employees; wages of laborers and mechanics; application of employees' compensation act

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 5 sections 5373, 5948.

§ 831h. Annual financial statement; purchases and contracts; audit by Comptroller General

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 831m, 831n–4 of this title; title 31 section 850; title 41 section 612.

§ 831m. Allocation and charge of value and cost of plants to particular objects; cost accounting; reports of costs of operation; sale of surplus power at profit

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 831n–1. Bonds to carry out provisions of section 831k–1; amount, terms and conditions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 831n–3. Use of funds; limitation of issuance

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 831n–4. Bonds for financing power program

ABOLITION OF THE ATOMIC ENERGY COMMISSION

The Atomic Energy Commission was abolished and all functions were transferred to the Administrator of the Energy Research and Development Administration (unless otherwise specifically provided) by section 5814 of Title 42, The Public Health and Welfare. The Energy Research and Development Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 824k of this title.

CHAPTER 12B—BONNEVILLE PROJECT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 40 section 474; title 42 section 7152.

§ 832. Completion and maintenance of project; generation of electricity

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to

be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

§ 832a. General administrative provisions

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832c. Distribution of electricity; preference to public bodies and cooperatives

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

§ 832d. Contracts for sale of electricity

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832e. Rate schedules

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832f. Elements in determining rates

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832g. Purchase of supplies and services

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

§§ 832h, 832i

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 832k. Authority of Administrator

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

CHAPTER 12C—FORT PECK PROJECT

§§ 833 to 833c

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

§§ 833d, 833e

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b),

7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 833f, 833g

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

§ 833h. Personnel; appointment and compensation

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 833i, 833j

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

§ 833q. Educational costs of dependents of employees; payments to school districts; reimbursement from continuing fund

TRANSFER OF FUNCTIONS

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

CHAPTER 12D—COLUMBIA BASIN PROJECT

§ 835m. Recommendations for changes in limitations on financial assistance; time and frequency of submission

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

CHAPTER 12E—NIAGARA POWER PROJECT

§ 836. Authorization to license construction and operation; licensing conditions

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

CHAPTER 12F—PACIFIC NORTHWEST CONSUMER POWER PREFERENCE; RECIPROCAL PRIORITY IN OTHER REGIONS

§ 837. Definitions

TERMINATION OF FEDERAL POWER COMMISSION

The Federal Power Commission, referred to in subsec. (g), was terminated and the functions, personnel, property, funds, etc., thereof were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 837a. Limitation of sale, delivery, and exchange of electric energy and electric peaking capacity for use outside Pacific Northwest to surplus energy and surplus peaking capacity; notice to customers; inspection of contract drafts

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

CHAPTER 12G—PACIFIC NORTHWEST FEDERAL TRANSMISSION SYSTEM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 7152.

§§ 838 to 838e

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

§ 838f. Marketing of Federal power; sales agent

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to

be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The power marketing functions of the Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, were transferred to the Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, The Public Health and Welfare, and are to be exercised by the Secretary through a separate Administration within the Department of Energy.

§ 838g. Schedules of rates and charges for sale of Federal power and transmission of non-Federal power; confirmation and approval by Federal Power Commission; criteria for modification and establishment

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§§ 838i to 838k

TRANSFER OF FUNCTIONS

The functions of the Secretary of the Interior with respect to the Bonneville Power Administration were transferred to the Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, The Public Health and Welfare, with the Bonneville Power Administration to be preserved as a distinct organizational entity within the Department of Energy and headed by an Administrator.

CHAPTER 16A—ATLANTIC TUNAS CONVENTION

§ 971. Definitions

For the purpose of this chapter—

[*See main edition for text of* (1) *to* (3)]

(4) The term "fisheries zone" means the waters included within a zone contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is two hundred nautical miles from the baseline from which the territorial sea is measured; or similar zones established by other parties to the Convention to the extent that such zones are recognized by the United States.

[*See main edition for text of* (5) *to* (10)]

(As amended Pub. L. 95–33, § 2, May 26, 1977, 91 Stat. 173.)

AMENDMENTS

1977—Par. (4). Pub. L. 95–33 deleted the comma between "zone" and "contiguous", substituted "two hundred" for "200", and substituted a semi-colon for a comma following "is measured".

§ 971d. Administration

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 971h. Authorization of appropriations

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, for fiscal year 1976, the period beginning July 1, 1976, and ending September 30, 1976, and fiscal years 1977, 1978, 1979, and 1980 such sums as may be necessary for carrying out the purposes and provisions of this chapter, including—

(1) necessary travel expenses of the United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5; and

(2) the United States share of the joint expenses of the Commission as provided in article X of the convention.

(As amended Pub. L. 95–33, § 1, May 26, 1977, 91 Stat. 173.)

AMENDMENTS

1977—Pub. L. 95–33 substituted "fiscal years 1977, 1978, 1979, and 1980" for "fiscal year 1977" in the provisions preceding par. (1).

CHAPTER 17—NORTHWEST ATLANTIC FISHERIES

§§ 981 to 991. Repealed. Pub. L. 95–6, § 4, Feb. 21, 1977, 91 Stat. 16

Section 981, acts Sept. 27, 1950, ch. 1054, § 2, 64 Stat. 1067; July 24, 1968, Pub. L. 90–420, § 1(a) to (c), 82 Stat. 419; Aug. 11, 1971, Pub. L. 92–87, §§ 101 to 103, 85 Stat. 310; July 10, 1974, Pub. L. 93–339, § 1(a), 88 Stat. 293, covered definitions of "convention", "Commission", "person", "vessel", "fishing gear", "fishing", "fish", "international measures of control", and "national measures of control".

Section 982, acts Sept. 27, 1950, ch. 1054, § 3, 64 Stat. 1068; Aug. 11, 1971, Pub. L. 92–87, § 111(a), (b), 85 Stat. 313, related to appointment and compensation of Commissioners for the International Commission for the Northwest Atlantic Fisheries.

Section 983, acts Sept. 27, 1950, ch. 1054, § 4, 64 Stat. 1068; July 24, 1968, Pub. L. 90–420, § 1(d), 82 Stat. 419; July 10, 1974, Pub. L. 93–339, § 1(b), (c), (g), 88 Stat. 293, provided for appointment, compensation, and travel expenses of an advisory committee.

Section 984, acts Sept. 27, 1950, ch. 1054, § 5, 64 Stat. 1068; Aug. 11, 1971, Pub. L. 92–87, § 111(c), 85 Stat. 313, deemed service of a United States Commissioner or member of the advisory committee as service as a special government employee of the United States, as defined in section 202 of Title 18.

Section 985, acts Sept. 27, 1950, ch. 1054, § 6, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92–87, §§ 104, 105, 85 Stat. 310, 311, authorized Secretary of State to receive on behalf of the United States reports, requests, recommendations, and other communications of the Commission, and to act thereon.

Section 986, acts Sept. 27, 1950, ch. 1054, § 7, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92–87, §§ 106, 107, 110(a),

(b), 85 Stat. 311, 312; July 10, 1974, Pub. L. 93-339, § 1(d), (e), 88 Stat. 293, authorized Secretary of Commerce to enforce this chapter.

Section 987, act Sept. 27, 1950, ch. 1054, § 8, 64 Stat. 1069, related to the Commissioner's cooperation with agencies of the United States government and State and private institutions and organizations.

Section 988, acts Sept. 27, 1950, ch. 1054, § 9, 64 Stat. 1069; Aug. 11, 1971, Pub. L. 92-87, § 108, 85 Stat. 312; July 10, 1974, Pub. L. 93-339, § 1(f), 88 Stat. 293, related to activities declared unlawful with respect to this chapter.

Section 989, acts Sept. 27, 1950, ch. 1054, § 10, 64 Stat. 1070; Aug. 11, 1971, Pub. L. 92-87, § 109, 85 Stat. 312, covered the penalties for violations of section 988 of this title or any regulations adopted pursuant to this chapter.

Section 990, acts Sept. 27, 1950, ch. 1054, § 11, 64 Stat. 1070; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118; Aug. 11, 1971, Pub. L. 92-87, § 110(c), (d), 85 Stat. 312, related to procedures for arrest, search and seizure, warrants, stay of execution, and bond or stipulation with respect to persons committing violations of the convention, this chapter, or adopted regulations.

Section 991, acts Sept. 27, 1950, ch. 1054, § 12, 64 Stat. 1071; Aug. 11, 1971, Pub. L. 92-87, § 111(d), 85 Stat. 313, authorized appropriation to carry out the purposes and provisions of this chapter.

EFFECTIVE DATE OF REPEAL

Section 4 of Pub. L. 95-6 provided in part that repeal of sections 981 to 991 of this title shall be effective Mar. 1, 1977.

CHAPTER 18—WATERSHED PROTECTION AND FLOOD PREVENTION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 460*l*-17 of this title; title 7 section 1931; title 22 section 277d-29; title 30 section 1265; title 33 section 1288; title 40 App. section 214; title 42 sections 3131, 3188a.

§ 1002. Definitions

For the purposes of this chapter, the following terms shall mean:

The "Secretary"—the Secretary of Agriculture of the United States.

"Works of improvement"—any undertaking for—

(1) flood prevention (including structural and land treatment measures),

(2) the conservation, development, utilization, and disposal of water, or

(3) the conservation and proper utilization of land,

in watershed or subwatershed area not exceeding two hundred and fifty thousand acres and not including any single structure which provides more than twelve thousand five hundred acre-feet of floodwater detention capacity, and more than twenty-five thousand acre-feet of total capacity. No appropriation shall be made for any plan involving an estimated Federal contribution to construction costs in excess of $1,000,000, or which includes any structure which provides more than twenty-five hundred acre-feet of total capacity unless such plan has been approved by resolutions adopted by the appropriate committees of the Senate and House of Representatives: *Provided*, That in the case of any plan involving no single structure providing more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives and in the case of any plan involving any single structure of more than 4,000 acre-feet of total capacity the appropriate committees shall be the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives, respectively. A number of such subwatersheds when they are component parts of a larger watershed may be planned together when the local sponsoring organizations so desire.

"Local organization"—any State, political subdivision thereof, soil or water conservation district, flood prevention or control district, or combinations thereof, or any other agency having authority under State law to carry out, maintain and operate the works of improvement; or any irrigation or reservoir company, water users' association, or similar organization having such authority and not being operated for profit that may be approved by the Secretary.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1506(a), 91 Stat. 1022.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "$1,000,000" for "$250,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

§ 1005. Works of improvement

[*See main edition for text of (1) and (2)*]

(3) Transmission of certain plans to Congress

Whenever the estimated Federal contribution to the construction costs of works of improvement in the plan for any watershed or subwatershed area shall exceed $1,000,000 or the works of improvement include any structure having a total capacity in excess of twenty-five hundred acre-feet, the Secretary shall transmit a copy of the plan and the justification therefor to the Congress through the President.

(4) Transmission of certain plans and recommendations to Congress

Any plans for works of improvement involving an estimated Federal contribution to construction costs in excess of $1,000,000 or including any structure having a total capacity in excess of twenty-five hundred acre-feet (a) which includes works of improvement for reclamation or irrigation, or which affects public or other lands or wildlife under the jurisdiction of the Secretary of the Interior, (b) which includes Federal assistance for goodwater [1] detention structures, (c) which includes features which may affect the public health, or (d) which includes measures for control or abatement of water pollution, shall be submitted to

[1] So in original. Probably should read "floodwater".

the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, or the Administrator of the Environmental Protection Agency, respectively, for his views and recommendations at least thirty days prior to transmission of the plan to the Congress through the President. The views and recommendations of the Secretary of the Interior, the Secretary of the Army, the Secretary of Health, Education, and Welfare, and the Administrator of the Environmental Protection Agency, if received by the Secretary prior to the expiration of the above thirty-day period, shall accompany the plan transmitted by the Secretary to the Congress through the President.

[*See main edition for text of* (5)]

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1506(b), (c), 91 Stat. 1022.)

AMENDMENTS

1977—Subd. (3). Pub. L. 95-113, § 1506(b), substituted "$1,000,000" for "$250,000".

Subd. (4). Pub. L. 95-113, § 1506(c), substituted "$1,000,000" for "$250,000".

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

§ 1006. Cooperative programs

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 30 section 1265.

§ 1006a. Loans or advancements for financing local share of costs; repayment; interest; maximum amount

The Secretary is authorized to make loans or advancements (a) to local organizations to finance the local share of costs of carrying out works of improvement provided for in this chapter, and (b) to State and local agencies to finance the local share of costs of carrying out works of improvement (as defined in section 1002 of this title) in connection with the eleven watershed improvement programs authorized by section 13 of the Act of December 22, 1944 (58 Stat. 887), as amended and supplemented: *Provided*, That the works of improvement in connection with said eleven watershed improvement programs shall be integral parts of watershed or subwatershed work plans agreed upon by the Secretary of Agriculture and the concerned State and local agencies. Such loans or advancements shall be made under contracts or agreements which will provide, under such terms and conditions as the Secretary deems appropriate, for the repayment thereof in not more than fifty years from the date when the principal benefits of the works of improvement first become available, with interest at the average rate, as determined by the Secretary of the Treasury, payable by the Treasury upon its marketable public obligations outstanding at the beginning of the fiscal year in which the loan or advancement is made, which are neither due nor callable for redemption for fifteen years from date of issue. With respect to any single plan for works of improvement, the amount of any such loan or advancement shall not exceed $10,000,000.

(As amended Sept. 29, 1977, Pub. L. 95-113, title XV, § 1508, 91 Stat. 1022.)

AMENDMENTS

1977—Pub. L. 95-113 substituted "$10,000,000" for "five million dollars" as the maximum amount of a loan or advancement for any single plan for works of improvement.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

CHAPTER 19—NORTH PACIFIC FISHERIES

Sec.

1033. Registration permits for Canadian or Japanese fishing vessels fishing in fishery conservation zone [New].
(a) Requirement.
(b) Issuance; contents; display; form and manner of applications; payment and collection of fees.
(c) Exempted fishing vessels.
1034. Implementation of research, etc., programs under Convention [New].
(a) Scope of required activities during research period.
(b) Regulation of taking of marine mammals incidental to fishing operations by Japanese vessels within fishery conservation zone during research period; exceptions.
(c) Regulation of taking of marine mammals incidental to fishing operations by Japanese vessels within fishery conservation zone after research period.
(d) Report to Congress; contents.
1035. Provisional administrative authorization [New].

§ 1021. Definitions

As used in this chapter, the term—

(a) "Convention" means the International Convention for the High Seas Fisheries of the North Pacific Ocean with a protocol and annex relating thereto signed at Tokyo, May 9, 1952, as amended by the Protocol Amending the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo, April 25, 1978.

[*See main edition for text of* (b) *to* (d)]

(e) "Fishery conservation zone" means the fishery conservation zone of the United States established by section 1811 of this title.

(f) "Fishing vessel" means—

(1) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(2) any vessel outfitted to engage in any activity described in paragraph (1); or

(3) any vessel in normal support of any vessel described in paragraph (1) or (2).

(g) "Permit" means a permit issued by the Secretary of State in cooperation with the Secretary under section 1033 of this title.

(h) "Secretary" means the Secretary of Commerce.

(As amended July 28, 1978, Pub. L. 95-326, § 1(1), 92 Stat. 399.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-326, § 1(1)(A), added reference to the annex to the 1952 International Convention and provisions relating to the amendment by the 1978 Protocol.

Subsec. (e). Pub. L. 95-326, § 1(1)(B), substituted provisions defining the term "Fishery conservation zone" for provisions defining the term "Fishing vessel".

Subsecs. (f) to (h). Pub. L. 95-326, § 1(1)(B), added subsecs. (f) to (h).

EFFECTIVE DATE OF 1978 AMENDMENT

Section 2 of Pub. L. 95-326 provided that: "This Act, including the amendments made by this Act [enacting sections 1033 to 1035 of this title amending sections 1021, 1023, 1025, 1025a, 1027, 1029, 1030, and 1032 of this title, and repealing section 1031 of this title], shall take effect on the date of enactment of this Act [July 28, 1978], except the amendments made by paragraph (10) of the first section of this Act [amending section 1032 of this title] shall take effect on October 1, 1978."

SEPARABILITY OF PROVISIONS

Section 16, formerly § 14, of act Aug. 12, 1954, as redesignated by Pub. L. 95-326, § 1(11), July 28, 1978, 92 Stat. 404, provided that: "If any provision of this Act [this chapter] or the application of such provision to any circumstances or persons shall be held invalid, the validity of the remainder of the Act [this chapter] and the applicability of such provision to other circumstances or persons shall not be affected thereby."

§ 1022. United States Commissioners

(a) Appointment; number; term; compensation; eligibility

The United States shall be represented on the Commission by not more than four United States Commissioners to be appointed by the President and serve at his pleasure. Each United States Commissioner shall be appointed for a term of office of not to exceed four years, but is eligible for reappointment. Any United States Commissioner may be appointed for a term of less than four years if such appointment is necessary to insure that the terms of office of not more than one Commissioner will expire in any one year. Of the Commissioners, who shall receive no compensation for their services as Commissioners—

(1) one shall be an official of the United States Government;

(2) two shall be residents of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the fisheries covered by the Convention.

[*See main edition for text of* (b)]

(As amended July 28, 1978, Pub. L. 95-326, § 1(2)(A), 92 Stat. 399.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-326 substituted provisions requiring appointment of two Commissioners from Alaska and one Commissioner from Washington, with all to be knowledgeable or experienced concerning the fisheries covered by the Convention, for provisions requiring appointment of Commissioners, other than the one appointed from the United States Government, to be residents of a State with residents maintaining a substantial fishery in the Convention zone, and struck out applicability to terms after Jan. 1, 1973.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 1(2)(B) of Pub. L. 95-326 provided that: "The amendment made by paragraph (A) [amending subsec. (a) of this section] shall take effect on the sixtieth day after the date of the enactment of this Act [July 28, 1978]."

§ 1023. Advisory Committee

(a) Appointment and number of members; terms of office

The United States Section shall appoint an advisory committee of not less than six and not more than twenty-one members and shall fix the terms of office thereof. The members shall be appointed from among—

(1) individuals who are knowledgeable or experienced with respect to the fisheries covered by the Convention; and

(2) officers and employees of the fishery agencies of States the residents of which maintain a substantial fishery in the Convention area;

except that two-thirds of the membership of the committee shall consist of individuals, appointed under paragraphs (1) and (2), who are residents of Alaska.

[*See main edition for text of* (b) *and* (c)]

(d) Compensation

The members of the advisory committee shall receive no compensation for their services as such members. On approval by the United States Section, not more than five members of the committee, designated by the committee, shall be paid for transportation expenses and per diem incident to attendance at meetings of the Commission or the United States Section; except that in the case in which—

(1) one member is so designated, such member shall be from among the members representing Alaska;

(2) two or three members are so designated, two members shall be from among those representing Alaska; and

(3) four or five members are so designated, three members shall be from among those representing Alaska.

(As amended July 28, 1978, Pub. L. 95-326, § 1(3), 92 Stat. 400.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-326, § 1(3)(A), added provisions increasing membership from not less than five nor more than twenty to not less than six nor more than twenty-one, added provisions respecting numerical requirements applicable to residents of Alaska, and substituted provisions requiring individuals appointed to be knowledgeable or experienced in fisheries covered by the Convention, for provisions requiring individuals appointed to be from the various groups participating in the fisheries covered by the Convention.

Subsec. (d). Pub. L. 95-326, § 1(3)(B), added provisions increasing from not more than three members to not more than five members those members entitled to expenses, etc., and provisions setting forth requirements for members designated to receive compensation.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-326 effective on July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

§ 1025. Acceptance or rejection of recommendations of Commission by Secretary of State; concurrence of Secretary

The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article III, section 1 of the Convention.

(As amended July 28, 1978, Pub. L. 95-326, § 1(4), 92 Stat. 400.)

AMENDMENTS

1978—Pub. L. 95-326 substituted provisions setting forth authority of the Secretary of State, with the concurrence of the Secretary, to accept or reject recommendations of the Commission, for provisions setting forth authorities of the President with respect to acceptance or rejection of recommendations of the Commission and selection of persons for the special committee provided by the Protocol.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-326 effective on July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

§ 1025a. Administration and enforcement of Convention, etc.

(a) Authority of Secretary

The Secretary shall administer and, except to the extent otherwise provided for in this chapter, enforce the provisions of the Convention, this chapter, and regulations issued under this chapter.

(b) Regulations implementating Convention and chapter; cooperation with officials of any government party to Convention

In carrying out such functions, the Secretary—

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating and the United States Section, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter; and

(2) may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the government of any party to the Convention.

(c) Area subject to regulations

The Secretary may adopt regulations which apply only to stocks of fish in the Convention area north of the parallel of north latitude of 48 degrees and 30 minutes, but such regulations shall not apply in the Convention area south of the 49th parallel of north latitude with respect to sockeye salmon (Oncorhynchus nerka) or pink salmon (Oncorhynchus gorbuscha).

(As amended July 28, 1978, Pub. L. 95-326, § 1(5), 92 Stat. 400.)

AMENDMENTS

1978—Pub. L. 95-326 amended section generally by designating the first and second sentences as subsecs. (a) and (b), respectively, and the third and fourth sentences as subsec. (c), and in subsec. (b)(1) added provision relating to consultation and in subsec. (c) omitted provision relating to consultation with the United States Section which is now covered by subsec. (b)(1).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-326 effective on July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

§ 1027. Enforcement provisions

(a) Authority of Secretary and Secretary of department in which Coast Guard is operating; agreements for utilization of personnel, services, equipment, and facilities of Federal and State agencies for implementation of duties

This chapter shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency which has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers (hereinafter in this chapter referred to as "enforcement officers") to enforce the provisions of the Convention, this chapter, and regulations adopted and permits issued under this chapter: *Provided*, That any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

(b) Powers of enforcement officers

Enforcement officers may, within the fishery conservation zone—

(1) with or without a warrant or other process—

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 1029 of this title;

(B) board, and search or inspect, any fishing vessel which is subject to the provisions of the Convention and this chapter;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this chapter, or any regulation adopted or permit issued under this chapter;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C); and

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) Jurisdiction of district courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter.

(d) Additional powers of enforcement officers

(1) Enforcement officers may in the Convention area outside the fishery conservation zone and similar zones of Canada and Japan—

(A) board any fishing vessel of Canada or Japan fishing for or processing anadromous species and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel for the purpose of carrying out the provisions of the Convention, this chapter, or any regulation adopted or permit issued under this chapter; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the enforcement officer, detain such vessel or person and further investigate the circumstances if necessary.

If an enforcement officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall further detain the vessel or person and deliver the vessel or person as promptly as practicable to the authorized officials of the appropriate nation.

(2) When requested by the appropriate authorities of Canada or Japan, as the case may be, an enforcement officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution in Canada or Japan of any violation of the provisions of the Convention or any Canadian or Japanese law relating to the enforcement thereof.

(As amended July 28, 1978, Pub. L. 95-326, § 1(6), 92 Stat. 400.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-326 substituted provisions setting forth authority and powers and duties for enforcement by the Secretary and the Secretary of the department in which the Coast Guard is operating, for provisions setting forth enforcement responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary of Commerce, and provisions authorizing regulations for procedures and methods of enforcement.

Subsec. (b). Pub. L. 95-326 substituted provisions setting forth powers of enforcement officers, for provisions relating to enforcement of abstention requirements respecting fishing in certain areas by nationals and vessels of contracting parties.

Subsec. (c). Pub. L. 95-326 substituted provisions relating to jurisdiction of the district courts for provisions setting forth authorities of Coast Guard officers, etc. to board and inspect vessels of Canada and Japan to determine compliance with Convention requirements.

Subsec. (d). Pub. L. 95-326 redesignated existing provisions as par. (1) and, as so redesignated, added provisions setting forth boarding, etc., powers of enforcement officers in the Convention area outside the fishery conservation zone and similar zones of Canada and Japan, and added par. (2).

Subsec. (e). Pub. L. 95-326 struck out subsec. (e) relating to use of enforcement officers as witnesses and production of records and files for prosecutions in Canada and Japan. See subsec. (d) of this section.

Subsec. (f). Pub. L. 95-326 struck out subsec. (f) authorizing the Secretary of Commerce to designate enforcement officers. See subsec. (a) of this section.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-326 effective on July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1030 of this title.

§ 1029. Unlawful activities

It is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of the Convention, this chapter, or any regulation adopted or permit issued under this chapter;

(2) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this chapter, or any regulation or permit referred to in paragraph (1);

(3) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest or detention for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of the Convention or this chapter or any regulation adopted or permit issued under this chapter;

(6) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such person has committed any act prohibited by this section.

(As amended July 28, 1978, Pub. L. 95-326, § 1(7), 92 Stat. 402.)

AMENDMENTS

1978—Pub. L. 95-326 restructured entire section by setting out unlawful activities in pars. (1) to (6) in place of subsecs. (a) to (g), which set forth unlawful activities as constituting in subsec. (a) fishing and related transactions in violation of regulations and court orders, in subsec. (b) catching of any stock of fish in violation of agreement by United States to abstain from fishing in certain waters, in subsec. (c) transacting in any fish from waters in violation of abstention

by United States, in subsec. (d) transacting in any fish from waters in violation of abstention by Canada and Japan, in subsec. (e) aiding or abetting in taking of fish from waters in violation of abstention by Canada and Japan, in subsec. (f) refusal to permit boarding and inspection of vessels, and in subsec. (g) commission or omission of acts prohibited or required by regulations.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-326 effective on July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1027, 1030 of this title.

§ 1030. Penalties

(a) Civil penalties; administrative and judicial procedures applicable; amount of fine; compromise, modification, etc.

(1) Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 1029 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(b) Criminal penalties; activities constituting offenses; fine and sentence

(1) A person is guilty of an offense if he commits any act prohibited by section 1029(1), (3), (4), or (5) of this title.

(2) Any offense described in paragraph (1) is punishable by a fine of not more than $50,000, or imprisonment for not more than six months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this chapter, or places any such officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000, or imprisonment for not more than ten years, or both.

(c) Seizure and forfeiture of fishing vessels, etc.; procedures applicable

(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 1029 of this title shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this chapter or for which security has not previously been obtained under subsection (d).[1] The provisions of the customs laws relating to—

(A) the disposition of forfeited property;

(B) the proceeds from the sale of forfeited property;

(C) the remission or mitigation of forfeitures; and

(D) the compromise of claims;

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this chapter. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this chapter, be performed by officers or other persons designated for such purpose by the Secretary of Commerce.

(4)(A) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 1027(c) of this title shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

[1] So in original. Section contains no subsection (d).

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person (I) delivering such property to the appropriate court upon order thereof, without any impairment of its value, or (II) paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this chapter may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 1029 of this title were taken or retained in violation of the Convention and this chapter.

(As amended July 28, 1978, Pub. L. 95-326, § 1(8), 92 Stat. 402; Oct. 30, 1978, Pub. L. 95-553, § 1(1), 92 Stat. 2072.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-326 designated existing provisions as par. (1) and, as so designated, substituted provisions setting forth procedures applicable, fines, etc., for activities constituting violations under section 1029 of this title, for provisions setting forth fines, disposal procedures, etc., for activities constituting violations under subsecs. (b), (c), or (d) of section 1029 of this title, and added pars. (2) to (4).

Subsec. (b). Pub. L. 95-326 designated existing provisions as par. (1) and, as so designated, substituted provisions making any person guilty of an offense when committing any act prohibited by section 1029(1), (3), (4), or (5) of this title, for provisions authorizing a fine of not more than $10,000 for any person convicted of violating section 1029(c) of this title, and added par. (2).

Subsec. (b)(2). Pub. L. 95-553 struck out "subsection" preceding "paragraph (1) is punishable".

Subsec. (c). Pub. L. 95-326 designated existing provisions as par. (1) and, as so designated, substituted provisions setting forth authorization for seizure and forfeiture of any fishing vessel, etc., used in violating section 1029 of this title, for provisions setting forth authorization for seizure and forfeiture, imposition of fine and sentence, etc., for persons convicted of violating section 1029(f) of this title, and added pars. (2) to (5).

Subsec. (d). Pub. L. 95-326 struck out subsec. (d), which set forth provisions relating to imposition of fine and sentence, etc., for any person convicted of violating any other provision of this chapter or any regulation adopted pursuant to this chapter.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-326 effective on July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

§ 1031. Repealed. Pub. L. 95-326, § 1(9), July 28, 1978, 92 Stat. 404

Section, acts Aug. 12, 1954, ch. 669, § 12, 68 Stat. 700; July 24, 1957, Pub. L. 85-114, 71 Stat. 310; Oct. 9, 1972, Pub. L. 92-471, title I, § 106, 86 Stat. 785, set forth provisions relating to powers and authorities of enforcement officers.

EFFECTIVE DATE OF REPEAL

Section repealed effective July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

§ 1032. Funding requirements

(a) General authorization of appropriations

There is authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this chapter, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners without regard to the Standardized Government Travel Regulations, as amended, subchapter I of chapter 57 of title 5, or section 5731(a) of title 5; and

(2) the United States share of the joint expenses of the Commission; provided that the Commissioners shall not, with respect to commitments concerning the United States share of the joint expenses of the Commission, be subject to the provisions of section 262(b)[1] of title 22 insofar as they limit the authority of United States representatives to international organizations with respect to such commitments.

(b) Availability of funds

Such funds as shall be made available to the Secretary for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs established pursuant to the Convention.

(c) Authorization of appropriations for marine mammal research program, etc.

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of section 1034 of this title, such sums not to exceed $1,000,000 for fiscal year 1979 and for each of the next two fiscal years.

(d) Authorizations for appropriations for sonar censusing project

There are authorized to be appropriated to the Secretary, for purposes of carrying out a sonar censusing project in the Arctic-Yukon-Kuskokwim region of Alaska, not to exceed $500,000 during the period beginning October 1, 1978, and ending September 30, 1981.

(Aug. 12, 1954, ch. 669, § 12, formerly § 13, 68 Stat. 701; Sept. 6, 1966, Pub. L. 89-554, § 7(b), 80 Stat. 631; Oct. 9, 1972, Pub. L. 92-471, title I, §§ 107(c), 108(d), 86 Stat. 786, 787, and renumbered and amended July 28, 1978, Pub. L. 95-326, § 1(9), (10), 92 Stat. 404.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-326, § 1(10), added provisions authorizing implementation of research and observer programs under the Convention, and substituted reference to the Secretary for reference to the Secretary of Commerce.

Subsecs. (c), (d). Pub. L. 95-326, § 1(10), added subsecs. (c) and (d).

[1] So in original. Probably should be section 262b of title 22.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-326 effective on Oct. 1, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

§ 1033. Registration permits for Canadian or Japanese fishing vessels fishing in fishery conservation zone

(a) Requirement

Each Canadian or Japanese fishing vessel which is authorized to fish in the fishery conservation zone pursuant to the Convention shall have on board a registration permit issued under subsection (b) of this section.

(b) Issuance; contents; display; form and manner of applications; payment and collection of fees

The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each Canadian or Japanese fishing vessel which is authorized to fish within the fishery conservation zone pursuant to the Convention. Each such permit shall set forth the terms and conditions contained in the Convention that apply with respect to such operations, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall comply with any regulations adopted under section 1034(a) of this title and shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any enforcement officer. The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

(c) Exempted fishing vessels

Notwithstanding any other provision of law, Canadian and Japanese fishing vessels authorized to fish for anadromous species outside the fishery conservation zone pursuant to the Convention shall not be required to obtain any permit relating to such species.

(Aug. 12, 1954, ch. 669, § 13, as added July 28, 1978, Pub. L. 95-326, § 1(12), 92 Stat. 404.)

EFFECTIVE DATE

Section effective July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1021 of this title.

§ 1034. Implementation of research, etc., programs under Convention

(a) Scope of required activities during research period

The Secretary shall take such actions as are necessary and appropriate to assure the full implementation of the provisions of the Convention under which the United States and the Government of Japan have agreed—

(1) to carry out a marine mammal research program;

(2) to determine the effect of the salmon fishery on marine mammal populations; and

(3) to work to reduce or eliminate the taking of marine mammals incidental to fishing operations;

during the research period ending on June 9, 1981. Such actions shall include, but not be limited to, (A) the placement of observers aboard Japanese fishing vessels for purposes of making scientific observations and studies with respect to the incidental taking of marine mammals, and (B) the adoption of regulations, which conform to the provisions of the convention, governing the incidental taking of marine mammals by Japanese fishing vessels within the fishery conservation zone, including, but not limited to, regulations which require the collection of biological material and data on all marine mammals incidentally taken within such zone and the use of such gear and fishing techniques as are determined to be feasible to reduce or eliminate such incidental taking.

(b) Regulation of taking of marine mammals incidental to fishing operations by Japanese vessels within fishery conservation zone during research period; exceptions

During the research period ending on June 9, 1981, the taking of marine mammals incidental to fishing operations by Japanese vessels within the fishery conservation zone shall be regulated in accordance with paragraph 1(c) of the annex to the Convention; except that if the Secretary finds—

(1) on the basis of the marine mammal research program referred to in subsection (a)(1) of this section, that the population of Dall porpoise or of any other marine mammal affected by such incidental taking is below optimum sustainable population and is not trending upward toward such level or is in danger of depletion; or

(2) that the contemplated research efforts cannot be successfully implemented or that necessary and desirable potential reductions or elimination of incidental taking of marine mammals, although feasible, are not being realized,

the Secretary, acting through the Secretary of State, shall immediately initiate negotiations with the Government of Japan to modify the Convention or recommend such other action as is necessary to limit or eliminate the incidental taking of marine mammals to the extent feasible and, in any event, to the extent required to assure that such populations attain and remain at their optimum sustainable population levels.

(c) Regulation of taking of marine mammals incidental to fishing operations by Japanese vessels within fishery conservation zone after research period

After June 9, 1981, the taking of marine mammals incidental to fishing operations by Japanese vessels within the fishing conservation zone shall be regulated pursuant to the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.).

(d) Report to Congress; contents

The Secretary shall submit to Congress a report, prepared in consultation with the Secretary of State, on May 1 of 1979, 1980, and 1981 which shall set forth the activities undertaken by the United States and Japan to implement the objectives referred to in subsection (a)(1), (2), and (3) of this section and the results of such activities. The report shall detail the steps taken by both nations to implement the Convention, the results of all research and statistical reporting and analysis carried out pursuant to the Convention and a description of all enforcement activities and their disposition. The report shall include an analysis of salmon harvesting and research, estimates of the magnitude of incidental taking of Dall porpoises (Phocoenoides dalli) by Japanese fishing vessels, estimates, as possible, of the abundance, distribution, recruitment rates, status, trends, and impacts of incidental taking upon the optimum sustainable populations of Dall porpoises, and any proposals for adoption of fishing gear or techniques designed to reduce or eliminate such incidental taking. If available information is inadequate to provide the basis for such estimates or proposals, the report shall include an indication of what research efforts are needed to provide the requisite information.

(Aug. 12, 1954, ch. 669, § 14, as added July 28, 1978, Pub. L. 95-326, § 1(12), 92 Stat. 405, and amended Oct. 30, 1978, Pub. L. 95-553, § 1(2), 92 Stat. 2072.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), referred to in subsec. (c), is Pub. L. 92-522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

AMENDMENTS

1978—Subsec. (a)(3). Pub. L. 95-553 substituted "operation;" for "operation.".

EFFECTIVE DATE

Section effective July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1032, 1033 of this title.

§ 1035. Provisional administrative authorization

The Secretary, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating may administer this chapter consistent with the terms of the Convention on a provisional basis pending the exchange by all the contracting parties of instruments of ratification or approval of the Protocol Amending the International Convention for the High Seas Fisheries of the North Pacific Ocean, signed at Tokyo on April 25, 1978, in accordance with article II thereof.

(Aug. 12, 1954, ch. 669, § 15, as added July 28, 1978, Pub. L. 95-326, § 1(12), 92 Stat. 406.)

EFFECTIVE DATE

Section effective July 28, 1978, see section 2 of Pub. L. 95-326, set out as an Effective Date of 1978 Amendment note under section 1021 of this title.

CHAPTER 20—NATIONAL FISHERIES CENTER AND AQUARIUM

§ 1053. Delegation of responsibility for operation

CHANGE OF NAME

The Bureau of Sport Fisheries and Wildlife within the Fish and Wildlife Service, as originally referred to in text, was succeeded by the United States Fish and Wildlife Service pursuant to Pub. L. 93-371, § 1(c), Apr. 22, 1974, 88 Stat. 92. See section 742b of this title.

CHAPTER 23—NATIONAL WILDERNESS PRESERVATION SYSTEM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 90e, 90e-2, 272d, 273d, 460aa-1, 460dd-8, 460gg-1, 1281 of this title; title 43 section 1782.

§ 1131. National Wilderness Preservation System

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1702.

§ 1132. Extent of System

WILDERNESS AREAS

Site of Wildernesses	*Date of Designation*
Absaroka-Beartooth Wilderness Custer and Gallatin National Forests, Montana (92 Stat. 162)	Mar. 27, 1978
• • •	• • •
Blackjack Springs Wilderness Nicolet National Forest, Wisconsin (92 Stat. 1648)	Oct. 21, 1978
• • •	• • •
Boundary Waters Canoe Area Wilderness Boundary Waters Canoe Area, Minnesota (92 Stat. 1649)	Oct. 21, 1978
• • •	• • •
Buffalo National River Wilderness Buffalo National River, Arkansas (92 Stat. 3489)	Nov. 10, 1978
• • •	• • •
Carlsbad Caverns Wilderness Carlsbad Caverns National Park, New Mexico (92 Stat. 3489)	Nov. 10, 1978
• • •	• • •
Chama River Canyon Wilderness Santa Fe and Carson National Forests, New Mexico (92 Stat. 42)	Feb. 24, 1978
• • •	• • •
Everglades Wilderness, Everglades National Park, Florida (92 Stat. 3490)	Nov. 10, 1978
• • •	• • •
Golden Trout Wilderness Inyo and Sequoia National Forests, California (92 Stat. 41)	Feb. 24, 1978
Gospel-Hump Wilderness Nezperce National Forest, Idaho (92 Stat. 43)	Feb. 24, 1978
Great Bear Wilderness Flathead National Forest, Montana (92 Stat. 2062)	Oct. 28, 1978
• • •	• • •
Guadalupe Mountains Wilderness Guadalupe Mountains National Park, Texas (92 Stat. 3490)	Nov. 10, 1978
Gulf Islands Wilderness Gulf Islands National Seashore, Florida and Mississippi (92 Stat. 3490)	Nov. 10, 1978
• • •	• • •
Hawaii Volcanoes Wilderness Hawaii Volcanoes National Park, Hawaii (92 Stat. 3490)	Nov. 10, 1978
• • •	• • •
Hunter-Fryingpan Wilderness White River National Forest, Colorado (92 Stat. 41)	Feb. 24, 1978
• • •	• • •
Indian Peaks Wilderness Arapaho and Roosevelt National Forests, Colorado (92 Stat. 1095)	Oct. 11, 1978

Site of Wildernesses	*Date of Designation*
* * *	* * *
Kalmiopsis Wilderness Siskiyou National Forest, Oregon (92 Stat. 43)	Feb. 24, 1978
* * *	* * *
Lone Peak Wilderness Wasatch and Unita National Forests, Utah (92 Stat. 42)	Feb. 24, 1978
* * *	* * *
Manzano Mountain Wilderness Cibola National Forest, New Mexico (92 Stat. 42)	Feb. 24, 1978
* * *	* * *
Mount Hood Wilderness Mount Hood National Forest, Oregon (92 Stat. 43)	Feb. 24, 1978
* * *	* * *
Organ Pipe Cactus Wilderness Organ Pipe Cactus National Monument, Arizona (92 Stat. 3490)	Nov. 10, 1978
* * *	* * *
Pusch Ridge Wilderness Coronado National Forest, Arizona (92 Stat. 40)	Feb. 24, 1978
* * *	* * *
Sandia Mountain Wilderness Cibola National Forest, New Mexico (92 Stat. 42)	Feb. 24, 1978
Santa Lucia Wilderness Los Padres National Forest, California (92 Stat. 41)	Feb. 24, 1978
Savage Run Wilderness Medicine Bow National Forest, Wyoming (92 Stat. 42)	Feb. 24, 1978
* * *	* * *
Theodore Roosevelt Wilderness Theodore Roosevelt National Park, North Dakota (92 Stat. 3490)	Nov. 10, 1978
* * *	* * *
Three Sisters Wilderness Willamette National Forest, Oregon (92 Stat. 43)	Feb. 24, 1978
* * *	* * *
Ventana Wilderness Los Padres National Forest, California (92 Stat. 41)	Feb. 24, 1978
* * *	* * *
Welcome Creek Wilderness Lolo National Forest, Montana (92 Stat. 43)	Feb. 24, 1978
* * *	* * *
Wenaha-Tucannon Wilderness Umatilla National Forest, Oregon and Washington (92 Stat. 43)	Feb. 24, 1978
* * *	* * *
Whisker Lake Wilderness Nicolet National Forest, Wisconsin (92 Stat. 1648)	Oct. 21, 1978
* * *	* * *
Wild Rouge Wilderness Siskiyou National Forest, Oregon (92 Stat. 43)	Feb. 24, 1978

Revision of Boundaries of Rocky Mountain National Park; Report to Congress

Pub. L. 95-450, § 13, Oct. 11, 1978, 92 Stat. 1099, provided that: "Within one year of the date of enactment of this Act [Oct. 11, 1978], the Secretary of Agriculture and the Secretary of the Interior shall jointly develop and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive report studying and evaluating the suitability of revising the boundaries of Rocky Mountain National Park to include all or part of the Indian Peaks Wilderness Area as established by this Act [enacting sections 460jj to 460jj-7 of this title and notes set out under this section and section 460jj of this title] and examining the possible addition or deletion of other lands designated as 'Park Study Area' on a map entitled 'Indian Peaks Wilderness Area and Arapaho National Recreation Area' dated July 1978: *Provided*, That regardless of the ultimate administration of the areas to be studied under this section, the seventy thousand-acre Indian Peaks Wilderness Area established by this Act shall remain as a component of the National Wilderness Preservation System."

Endangered American Wilderness

Pub. L. 95-237, § 1, Feb. 24, 1978, 90 Stat. 40, provided:

"That this Act [enacting provisions set out in table under this section] may be cited as the 'Endangered American Wilderness Act of 1978'.

"Statement of Findings and Policy

"Section 1. (a) The Congress finds that—

"(1) many areas of undeveloped national forest land possess and exhibit outstanding natural characteristics giving them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

"(2) certain of these undeveloped national forest lands meet all statutory criteria for suitability as wilderness as established by subsection 2(c) of the Wilderness Act (78 Stat. 890) [section 1131(c) of this title], but are not adequately protected and lack statutory designation pursuant to the Wilderness Act [this chapter] as units of the National Wilderness Preservation System;

"(3) these and other undeveloped national forest lands exhibiting wilderness values are immediately threatened by pressures of a growing and more mobile population, large-scale industrial and economic growth, and development and uses inconsistent with the protection, maintenance, restoration, and enhancement of their wilderness character; and

"(4) among such immediately threatened areas are lands not being adequately protected or fully studied for wilderness suitability by the agency responsible for their administration.

"(b) Therefore, the Congress finds and declares that it is in the national interest that certain of these endangered areas be promptly designated as wilderness within the National Wilderness Preservation System, in order to preserve such areas as an enduring resource of wilderness which shall be managed to promote and perpetuate the wilderness character of the land and its specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people of present and future generations."

Montana Wilderness Study

Pub. L. 95-150, Nov. 1, 1977, 91 Stat. 1243, provided: "[Section 1.] That this Act [enacting this note] may be cited as the 'Montana Wilderness Study Act of 1977'.

"Sec. 2. (a) In furtherance of the purposes of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132), the Secretary of Agriculture (hereinafter known as the 'Secretary') shall, within five years after the date of enactment of this Act [Nov. 1, 1977], review certain lands designated by this section, as to their suitability for preservation as wilderness, and report his findings to the President, as follows:

"(1) certain lands in the Beaverhead National Forest, Montana, which are generally depicted on a map entitled 'West Pioneer Wilderness Study Area' and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the West Pioneer Wilderness Study Area;

"(2) certain lands in the Beaverhead and Gallatin National Forests, Montana, which are generally depicted on a map entitled 'Taylor-Hilgard Wilderness Study Area' dated April 1976, comprising approximately two hundred and eighty-nine thousand acres, which shall be known as the Taylor-Hilgard Wilderness Study Area;

"(3) certain lands in the Bitterroot National Forest, Montana, which are generally depicted on a map entitled 'Bluejoint Wilderness Study Area' and dated April 1976, comprising approximately sixty-one thousand acres, which shall be known as the Bluejoint Wilderness Study Area;

"(4) certain lands in the Bitterroot and Deerlodge National Forests, Montana, which are generally depicted on a map entitled 'Sapphire Wilderness Study Area' and dated April 1976, comprising approximately ninety-four thousand acres, which shall be known as the Sapphire Wilderness Study Area;

"(5) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map en-

titled 'Ten Lakes Wilderness Study Area' and dated April 1976, comprising approximately thirty-four thousand acres, which shall be known as the Ten Lakes Wilderness Study Area;

"(6) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled 'Middle Fork Judith Wilderness Study Area' dated April 1976, comprising approximately eighty-one thousand acres, which shall be known as the Middle Fork Judith Wilderness Study Area;

"(7) certain lands in the Lewis and Clark National Forest, Montana, which are generally depicted on a map entitled 'Big Snowies Wilderness Study Area' and dated April 1976, comprising approximately ninety-one thousand acres, which shall be known as the Big Snowies Wilderness Study Area;

"(8) certain lands in the Gallatin National Forest, Montana, which are generally depicted on a map entitled 'Hyalite-Porcupine-Buffalo Horn Wilderness Study Area' and dated April 1976, comprising approximately one hundred and fifty-one thousand acres, which shall be known as the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area; and

"(9) certain lands in the Kootenai National Forest, Montana, which are generally depicted on a map entitled 'Mount Henry Wilderness Study Area' and dated April 1976, comprising approximately twenty-one thousand acres, which shall be known as the Mount Henry Wilderness Study Area.

"(b) The Secretary shall conduct his review, and the President shall advise the United States Senate and House of Representatives of his recommendations, in accordance with the provisions of subsections 3(b) and 3(d) of the Wilderness Act [subsecs. (b) and (d) of this section], except that any reference in such subsections to areas in the national forests classified as 'primitive' shall be deemed to be a reference to the wilderness study areas designated by this Act and except that the President shall advise the Congress if[1] his recommendations with respect to such areas within seven years after the date of enactment of this Act [Nov. 1, 1977]: *Provided, however,* That the Secretary shall give at least sixty days' advance public notice of any hearing or other public meeting concerning such areas.

"(c) The maps referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

"Sec. 3. (a) Except as otherwise provided by this section, and subject to existing private rights, the wilderness study areas designated by this Act shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness character and potential for inclusion in the National Wilderness Preservation System.

"(b) Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

"(c) Nothing herein contained shall (1) limit the President in proposing, as part of his recommendation to Congress, the alteration of existing boundaries of any wilderness study area or recommending the addition to any such area of any contiguous area predominantly of wilderness value, or (2) limit the authority of the Secretary of Agriculture to establish, protect, study, or make recommendations to the President and Congress with respect to additional wilderness study areas within national forests in the State of Montana.

"Sec. 4. There are hereby authorized to be appropriated after October 1, 1977, such sums as may be necessary to carry out the provisions of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 90e–3, 228i–1, 271e, 272d, 273d, 459g–6, 459h–7, 459i–8, 459j–7, 460m–13, 460x–5, 460z–11, 460aa–4, 460dd–8, 460gg–5, 698d, 698*l* of this title; title 43 section 1782.

[1] So in original. Probably should be "of".

§ 1133. Use of wilderness areas

[*See main edition for text of* (a) *to* (c)]

(d) Special provisions

The following special provisions are hereby made:

[*See main edition for text of* (1) *to* (4)]

Commercial services

(5) Commercial services may be performed within the wilderness areas designated by this chapter to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas.

State water laws exemption

(6) Nothing in this chapter shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

State jurisdiction of wildlife and fish in national forests

(7) Nothing in this chapter shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national forests.

(As amended Pub. L. 95–495, § 4(b), Oct. 21, 1978, 92 Stat. 1650.)

AMENDMENTS

1978—Subsec. (d)(5) to (8). Pub. L. 95–495 redesignated former subsec. (d)(6) to (8) as (d)(5) to (7). Former subsec. (d)(5), which related to the management of the Boundary Waters Canoe Area, Superior National Forest, Minnesota, was struck out.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1782.

CHAPTER 24—CONSERVATION AND PROTECTION OF FUR SEALS, OTHER WILDLIFE, AND SEA OTTERS

SUBCHAPTER II—ADMINISTRATION OF THE PRIBILOF ISLANDS

§ 1168. Civil Service retirement benefits

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SUBCHAPTER IV—GENERAL PROVISIONS

§ 1182. Additional enforcement provisions

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by sec-

tion 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

CHAPTER 27—NATIONAL TRAILS SYSTEM

§ 1241. National trails system; establishment; Congressional declaration of policy; initial components

(a) In order to provide for the ever-increasing outdoor recreation needs of an expanding population and in order to promote the preservation of, public access to, travel within, and enjoyment and appreciation of the open-air, outdoor areas and historic resources of the Nation, trails should be established (i) primarily, near the urban areas of the Nation, and (ii) secondarily, within scenic areas and along historic travel routes of the Nation, which are often more remotely located.

(b) The purpose of this chapter is to provide the means for attaining these objectives by instituting a national system of recreation, scenic and historic trails, by designating the Appalachian Trail and the Pacific Crest Trail as the initial components of that system, and by prescribing the methods by which, and standards according to which, additional components may be added to the system.

(As amended Pub. L. 95-625, title V, § 551(1)-(3), Nov. 10, 1978, 92 Stat. 3511.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625, § 551(1), (2), inserted "the preservation of," and "and historic resources" following "promote" and "outdoor areas" and substituted "within scenic areas and along historic travel routes of the Nation, which are often more remotely located" for "within established scenic areas more remotely located".

Subsec. (b). Pub. L. 95-625, § 551(3), substituted ", scenic and historic" for "and scenic".

§ 1242. Composition of national trails system; uniform marker

The national system of trails shall be composed of—

(a) National recreation trails

National recreation trails, established as provided in section 1243 of this title, which will provide a variety of outdoor recreation uses in or reasonably accessible to urban areas.

(b) National scenic trails

National scenic trails, established as provided in section 1244 of this title, which will be extended trails so located as to provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas through which such trails may pass.

(c) National historic trails; designation; purposes; initial Federal protection components; certification of subsequent protected segments

National historic trails, established as provided in section 1244 of this title, which will be extended trails which follow as closely as possible and practicable the original trails or routes of travel of national historical significance. Designation of such trails or routes shall be continuous, but the established or developed trail, and the acquisition thereof, need not be continuous onsite. National historic trails shall have as their purpose the identification and protection of the historic route and its historic remnants and artifacts for public use and enjoyment. Only those selected land and water based components of an historic trail which are on federally owned lands and which meet the national historic trail criteria established in this chapter, are established as initial Federal protection components of a national historic trail. The appropriate Secretary may subsequently certify other lands as protected segments of an historic trail upon application from State or local governmental agencies or private interests involved if such segments meet the national historic trail criteria established in this chapter and such criteria supplementary thereto as the appropriate Secretary may prescribe, and are administered by such agencies or interests without expense to the United States.

(d) Connecting or side trails

Connecting or side trails, established as provided in section 1245 of this title, which will provide additional points of public access to national recreation, national scenic or national historic trails or which will provide connections between such trails.

The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker for the national trails system.

(As amended Pub. L. 95-625, title V, § 551(4), (5), Nov. 10, 1978, 92 Stat. 3511, 3512.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-625, § 551(4), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsec. (d). Pub. L. 95-625, § 551(4), (5), redesignated former subsec. (c) as (d) and, in subsec. (d) as so redesignated, substituted ", national scenic or national historic" for "or national scenic".

§ 1244. National scenic and national historic trails

(a) Establishment and designation; administration

National scenic and national historic trails shall be authorized and designated only by Act of Congress. There are hereby established the following National Scenic and National Historic Trails:

(1) The Appalachian National Scenic Trail, a trail of approximately two thousand miles extending generally along the Appalachian Mountains from Mount Katahdin, Maine, to Springer Mountain, Georgia. Insofar as practicable, the right-of-way for such trail shall comprise the trail depicted on the maps identified as "Nationwide System of Trails, Proposed Appalachian Trail, NST-AT-101-May 1967", which shall be on file and available for public inspection in the office of the Director of the National Park Service. Where practicable, such rights-of-way shall include lands protected for it under agreements in effect as of October 2, 1968, to which Federal agencies and States were parties. The Appalachian Trail shall be admin-

istered primarily as a footpath by the Secretary of the Interior, in consultation with the Secretary of Agriculture.

(2) The Pacific Crest National Scenic Trail, a trail of approximately two thousand three hundred fifty miles, extending from the Mexican-California border northward generally along the mountain ranges of the west coast States to the Canadian-Washington border near Lake Ross, following the route as generally depicted on the map, identified as "Nationwide System of Trails, Proposed Pacific Crest Trail, NST-PC-103-May 1967" which shall be on file and available for public inspection in the office of the Chief of the Forest Service. The Pacific Crest Trail shall be administered by the Secretary of Agriculture, in consultation with the Secretary of the Interior.

(3) The Oregon National Historic Trail, a route of approximately two thousand miles extending from near Independence, Missouri, to the vicinity of Portland, Oregon, following a route as depicted on maps identified as "Primary Route of the Oregon Trail 1841-1848", in the Department of the Interior's Oregon Trail study report dated April 1977, and which shall be on file and available for public inspection in the office of the Director of the National Park Service. The trail shall be administered by the Secretary of the Interior.

(4) The Mormon Pioneer National Historic Trail, a route of approximately one thousand three hundred miles extending from Nauvoo, Illinois, to Salt Lake City, Utah, following the primary historical route of the Mormon Trail as generally depicted on a map, identified as, "Mormon Trail Vicinity Map, figure 2" in the Department of the Interior Mormon Trail study report dated March 1977, and which shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(5) The Continental Divide National Scenic Trail, a trail of approximately thirty-one hundred miles, extending from the Montana-Canada border to the New Mexico-Mexico border, following the approximately route depicted on the map, identified as "Proposed Continental Divide National Scenic Trail" in the Department of the Interior Continental Divide Trail study report dated March 1977 and which shall be on file and available for public inspection in the office of the Chief, Forest Service, Washington, D.C. The Continental Divide National Scenic Trail shall be administered by the Secretary of Agriculture in consultation with the Secretary of the Interior. Notwithstanding the provisions of section 1246(c) of this title, the use of motorized vehicles on roads which will be designated segments of the Continental Divide National Scenic Trail shall be permitted in accordance with regulations prescribed by the appropriate Secretary.

(6) The Lewis and Clark National Historic Trail, a trail of approximately three thousand seven hundred miles, extending from Wood River, Illinois, to the mouth of the Columbia River in Oregon, following the outbound and inbound routes of the Lewis and Clark Expedition depicted on maps identified as, "Vicinity Map, Lewis and Clark Trail" study report dated April 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(7) The Iditarod National Historic Trail, a route of approximately two thousand miles extending from Seward, Alaska, to Nome, Alaska, following the routes as depicted on maps identified as "Seward-Nome Trail", in the Department of the Interior's study report entitled "The Iditarod Trail (Seward-Nome Route) and other Alaskan Gold Rush Trails" dated September 1977. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Washington, D.C. The trail shall be administered by the Secretary of the Interior.

(b) Additional national scenic or national historic trails; feasibility studies; consultations; submission of studies to Congress; scope of studies; qualifications for national historic trail designation

The Secretary of the Interior, through the agency most likely to administer such trail, and the Secretary of Agriculture where lands administered by him are involved, shall make such additional studies as are herein or may hereafter be authorized by the Congress for the purpose of determining the feasibility and desirability of designating other trails as national scenic or national historic trails. Such studies shall be made in consultation with the heads of other Federal agencies administering lands through which such additional proposed trails would pass and in cooperation with interested interstate, State, and local governmental agencies, public and private organizations, and landowners and land users concerned. The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from November 10, 1978, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:

(1) the proposed route of such trail (including maps and illustrations);

(2) the areas adjacent to such trails, to be utilized for scenic, historic, natural, cultural, or developmental, purposes;

(3) the characteristics which, in the judgment of the appropriate Secretary, make the proposed trail worthy of designation as a national scenic or national historic trail; and in the case of national historic trails the report shall include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historic significance based on the criteria developed under the Historic Sites Act of 1935 [16 U.S.C. 461 to 467];

[See main edition for text of (4) to (7)]

(8) the extent to which a State or its political subdivisions and public and private organi-

zations might reasonably be expected to participate in acquiring the necessary lands in the administration thereof;

(9) the relative uses of the lands involved, including: the number of anticipated visitor-days for the entire length of, as well as for segments of, such trail; the number of months which such trail, or segments thereof, will be open for recreation purposes; the economic and social benefits which might accrue from alternate land uses; and the estimated man-years of civilian employment and expenditures expected for the purposes of maintenance, supervision, and regulation of such trail;

(10) the anticipated impact of public outdoor recreation use on the preservation of a proposed national historic trail and its related historic and archeological features and settings, including the measures proposed to ensure evaluation and preservation of the values that contribute to their national historic significance; and

(11) to qualify for designation as a national historic trail, a trail must meet all three of the following criteria:

(A) It must be a trail or route established by historic use and must be historically significant as a result of that use. The route need not currently exist as a discernible trail to qualify, but its location must be sufficiently known to permit evaluation of public recreation and historical interest potential. A designated trail should generally accurately follow the historic route, but may deviate somewhat on occasion of necessity to avoid difficult routing through subsequent development, or to provide some route variation offering a more pleasurable recreational experience. Such deviations shall be so noted on site. Trail segments no longer possible to travel by trail due to subsequent development as motorized transportation routes may be designated and marked onsite as segments which link to the historic trail.

(B) It must be of national significance with respect to any of several broad facets of American history, such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans may be included.

(C) It must have significant potential for public recreational use or historical interest based on historic interpretation and appreciation. The potential for such use is generally greater along roadless segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.

(c) Routes subject to consideration for designation as national scenic trails

The following routes shall be studied in accordance with the objectives outlined in subsection (b) of this section:

[*See main edition for text of (1) to (22)*]

(23) Overmountain Victory Trail, extending from the vicinity of Elizabethton, Tennessee, to Kings Mountain National Military Park, South Carolina.

(d) Trail advisory councils; establishment and termination; term and compensation; membership; chairman

The Secretary charged with the administration of each respective trail shall, within one year of the date of the addition of any national scenic or national historic trail to the System, and within sixty days of November 10, 1978, for the Appalachian and Pacific Crest National Scenic Trails, establish an advisory council for each such trail, each of which councils shall expire ten years from the date of its establishment. The appropriate Secretary shall consult with such council from time to time with respect to matters relating to the trail, including the selection of rights-of-way, standards for the erection and maintenance of markers along the trail, and the administration of the trail. The members of each advisory council, which shall not exceed thirty-five in number, shall serve for a term of two years and without compensation as such, but the Secretary may pay, upon vouchers signed by the chairman of the council, the expenses reasonably incurred by the council and its members in carrying out their responsibilities under this section. Members of each council shall be appointed by the appropriate Secretary as follows:

(i) a member appointed to represent each Federal department or independent agency administering lands through which the trail route passes, and each appointee shall be the person designated by the head of such department or agency;

(ii) a member appointed to represent each State through which the trail passes, and such appointments shall be made from recommendations of the Governors of such States;

(iii) one or more members appointed to represent private organizations, including corporate and individual landowners and land users, which in the opinion of the Secretary, have an established and recognized interest in the trail, and such appointments shall be made from recommendations of the heads of such organizations: *Provided*, That the Appalachian Trail Conference shall be represented by a sufficient number of persons to represent the various sections of the country through which the Appalachian Trail passes; and

(iv) the Secretary shall designate one member to be chairman and shall fill vacancies in the same manner as the original appointment.

(e) Comprehensive national scenic trail plan; consultation; submission to Congressional committees

Within two complete fiscal years of the date of enactment of legislation designating a national scenic trail, except for the Continental Divide National Scenic Trail, as part of the system, and within two complete fiscal years of November 10, 1978, for the Pacific Crest and Appalachian Trails, the responsible Secretary shall, after full consultation with affected Fed-

eral land managing agencies, the Governors of the affected States, the relevant advisory council established pursuant to subsection (d) of this section, and the Appalachian Trail Conference in the case of the Appalachian Trail, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the acquisition, management, development, and use of the trail, including but not limited to, the following items:

(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be consummated with other entities, and an identified carrying capacity of the trail and a plan for its implementation;

(2) an acquisition or protection plan, by fiscal year, for all lands to be acquired by fee title or lesser interest, along with detailed explanation of anticipated necessary cooperative agreements for any lands not to be acquired; and

(3) general and site-specific development plans including anticipated costs.

(f) Comprehensive national historic trail plan; consultation; submission to Congressional committees

Within two complete fiscal years of the date of enactment of legislation designating a national historic trail or the Continental Divide National Scenic Trail as part of the system, the responsible Secretary shall, after full consultation with affected Federal land managing agencies, the Governors of the affected States, and the relevant Advisory Council established pursuant to subsection (d) of this section, submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a comprehensive plan for the management, and use of the trail, including but not limited to, the following items:

(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved, details of any anticipated cooperative agreements to be consummated with State and local government agencies or private interests, and for national scenic or national recreational trails an identified carrying capacity of the trail and a plan for its implementation; and

(2) the process to be followed by the appropriate Secretary to implement the marking requirements established in section 1246(c) of this title.

(As amended Pub. L. 95-248, § 1(1), (2), Mar. 21, 1978, 92 Stat. 159; Pub. L. 95-625, title V, § 551 (7)-(15), Nov. 10, 1978, 92 Stat. 3512-3515.)

REFERENCES IN TEXT

This Historic Sites Act of August 21, 1935, referred to in subsec. (b)(3), which is also known as the Historic Sites, Buildings, and Antiquities Act, is act Aug. 21, 1935, ch. 593, 49 Stat. 666, as amended, and is classified to sections 461 to 467 of Title 16, Conservation. For complete classification of this Act to the Code see Short Title note set out under section 461 of this title and Tables.

CODIFICATION

In the original, subsec. (c)(23) was added by section 551(13) of Pub. L. 95-625 as subsec. (c)(20) but was editorially redesignated as (c)(23) to reflect the probable intent of Congress in view of the addition of subsec. (c)(15) to (22) by Pub. L. 94-527, Oct. 17, 1976, 90 Stat. 2481.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625, § 551(7), substituted, in provision preceding par. (1), "scenic and national historic" for "scenic" and "the following National Scenic and National Historic Trails" for "as the initial National Scenic Trails".

Subsec. (a)(1). Pub. L. 95-625, § 551(8), substituted "Appalachian National Scenic Trail" for "Appalachian Trial".

Subsec. (a)(2). Pub. L. 95-625, § 551(8), substituted "Pacific Crest National Scenic Trail" for "Pacific Crest Trail".

Subsec. (a)(3). Pub. L. 95-625, § 551(9), substituted provisions establishing the Oregon National Historic Trail as a National Scenic and National Historic Trail for provisions requiring the establishment, by the Secretary of the Interior within 60 days after Mar. 21, 1978, of an Advisory Council for the Appalachian National Scenic Trail, which council was to terminate 120 months after Mar. 21, 1978.

Pub. L. 95-248, § 1(1), substituted provisions requiring establishment by the Secretary of the Interior within 60 days of Mar. 21, 1978, of an Advisory Council for the Appalachian National Scenic Trail, which shall terminate within 120 months of Mar. 21, 1978, and provisions relating to functions, membership, etc., of such Council, for provisions requiring establishment by the Secretary of the Interior of an advisory council for the Appalachian National Scenic Trail and by the Secretary of Agriculture of an advisory council for the Pacific Crest National Scenic Trail, and provisions relating to functions, membership, etc., of the councils.

Subsec. (a)(4) to (7). Pub. L. 95-625, § 551(9), added pars. (4) to (7).

Subsec. (b). Pub. L. 95-625, § 551(10), substituted in provision preceding par. (1) "National scenic or national historic" for "national scenic", inserted following "Secretary of the Interior," the phrase "through the agency most likely to administer such trail,", deleted third sentence "When completed, such studies shall be the basis of appropriate proposals for additional national scenic trails which shall be submitted from time to time to the President and to the Congress."; and substituted "The studies listed in subsection (c) of this section shall be completed and submitted to the Congress, with recommendations as to the suitability of trail designation, not later than three complete fiscal years from the date of enactment of their addition to this subsection, or from November 10, 1978, whichever is later. Such studies, when submitted, shall be printed as a House or Senate document, and shall include, but not be limited to:"for "Such proposals shall be accompanied by a report, which shall be printed as a House or Senate document, showing among other things—".

Subsec. (b)(3). Pub. L. 95-625, § 551(10), (11), substituted "scenic or national historic" for "scenic" and required in the case of national historic trails the report to include the recommendation of the Secretary of the Interior's National Park System Advisory Board as to the national historical significance based on the criteria developed under the Historic Sites Act of 1935.

Subsec. (b)(10), (11). Pub. L. 95-625, § 551(12), added pars. (10) and (11).

Subsec. (c). Pub. L. 95-625, § 551(13), added par. (23). See Codification note set out above.

Subsec. (d). Pub. L. 95-625, § 551(14), added subsec. (d) and repealed former subsec. (d) provisions for comprehensive plan for the management, acquisition, development, and use of the Appalachian Trail, submission to Congressional committees, and scope of plan, now covered in subsec. (e) of this section.

Pub. L. 95-248, § 1(2), added subsec. (d).

Subsecs. (e), (f). Pub. L. 95-625, § 551(15), added subsecs. (e) and (f).

§ 1245. Connecting or side trails; establishment, designation, and marking as components of national trails system; location

Connecting or side trails within park, forest, and other recreation areas administered by the Secretary of the Interior or Secretary of Agriculture may be established, designated, and marked as components of a national recreation, national scenic or national historic trail. When no Federal land acquisition is involved, connecting or side trails may be located across lands administered by interstate, State, or local governmental agencies with their consent: *Provided*, That such trails provide additional points of public access to national recreation, national scenic, or national historic trails.

(As amended Pub. L. 95-625, title V, § 551(16), Nov. 10, 1978, 92 Stat. 3515.)

AMENDMENTS

1978—Pub. L. 95-625 substituted ", national scenic or national historic" for "or national scenic," and ", national scenic, or national historic" for "or scenic".

§ 1246. Administration and development of national trails system

(a) Rights-of-way for national, scenic and historic, trails; criteria for selection; notice; agreement by federal officials having jurisdiction over selected lands; consultations

Pursuant to section 1244(a) of this title, the appropriate Secretary shall select the rights-of-way for national scenic and national historic trails and shall publish notice thereof in the Federal Register, together with appropriate maps and descriptions: *Provided*, That in selecting the rights-of-way full consideration shall be given to minimizing the adverse effects upon the adjacent landowner or user and his operation. Development and management of each segment of the National Trails System shall be designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land. The location and width of such rights-of-way across Federal lands under the jurisdiction of another Federal agency shall be by agreement between the head of that agency and the appropriate Secretary. In selecting rights-of-way for trail purposes, the Secretary shall obtain the advice and assistance of the States, local governments, private organizations, and landowners and land users concerned.

(b) Relocation of segment of national, scenic or historic, trail right-of-way; determination of necessity with official having jurisdiction; necessity for Act of Congress

After publication of notice in the Federal Register, together with appropriate maps and descriptions, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way, with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (i) such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: *Provided*, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress.

(c) Facilities on national, scenic or historic, trails; permissible activities; use of motorized vehicles; trail markers; establishment of uniform marker; placement of uniform markers

National scenic or national historic trails may contain campsites, shelters, and related-public-use facilities. Other uses along the trail, which will not substantially interfere with the nature and purposes of the trail, may be permitted by the Secretary charged with the administration of the trail. Reasonable efforts shall be made to provide sufficient access opportunities to such trails and, to the extent practicable, efforts shall be made to avoid activities incompatible with the purposes for which such trails were established. The use of motorized vehicles by the general public along any national scenic trail shall be prohibited and nothing in this chapter shall be construed as authorizing the use of motorized vehicles within the natural and historical areas of the national park system, the national wildlife refuge system, the national wilderness preservation system where they are presently prohibited or on other Federal lands where trails are designated as being closed to such use by the appropriate Secretary: *Provided*, That the Secretary charged with the administration of such trail shall establish regulations which shall authorize the use of motorized vehicles when, in his judgment, such vehicles are necessary to meet emergencies or to enable adjacent landowners or land users to have reasonable access to their lands or timber rights: *Provided further*, That private lands included in the national recreation, national scenic, or national historic trails by cooperative agreement of a landowner shall not preclude such owner from using motorized vehicles on or across such trails or adjacent lands from time to time in accordance with regulations to be established by the appropriate Secretary. Where a national historic trail follows existing public roads, developed rights-of-way or waterways, and similar features of man's nonhistorically related development, approximating the original location of a historic route, such segments may be marked to facilitate retracement of the historic route, and where a national historic trail parallels an existing public road, such road may be marked to commemorate the historic route. The Secretary of the Interior and the Secretary of Agriculture, in consultation with appropriate governmental agencies and public and private organizations, shall establish a uniform marker, including thereon an appropriate and distinctive symbol for each national recreation, national scenic, and national historic trail. Where the trails cross lands administered by

Federal agencies such markers shall be erected at appropriate points along the trails and maintained by the Federal agency administering the trail in accordance with standards established by the appropriate Secretary and where the trails cross non-Federal lands, in accordance with written cooperative agreements, the appropriate Secretary shall provide such uniform markers to cooperating agencies and shall require such agencies to erect and maintain them in accordance with the standards established.

(d) Use and acquisition of lands within exterior boundaries of areas included within right-of-way

Within the exterior boundaries of areas under their administration that are included in the right-of-way selected for a national recreation, national scenic, or national historic trail, the heads of Federal agencies may use lands for trail purposes and may acquire lands or interests in lands by written cooperative agreement, donation, purchase with donated or appropriated funds or exchange.

(e) Right-of-way lands outside exterior boundaries of federally administered areas; cooperative agreements or acquisition; failure to agree or acquire; agreement or acquisition by Secretary concerned; right of first refusal for original owner upon disposal

Where the lands included in a national scenic or national historic trail right-of-way are outside of the exterior boundaries of federally administered areas, the Secretary charged with the administration of such trail shall encourage the States or local governments involved (1) to enter into written cooperative agreements with landowners, private organizations, and individuals to provide the necessary trail right-of-way, or (2) to acquire such lands or interests therein to be utilized as segments of the national scenic or national historic trail: *Provided*, That if the State or local governments fail to enter into such written cooperative agreements or to acquire such lands or interests therein after notice of the selection of the right-of-way is published, the appropriate Secretary may (i) enter into such agreements with landowners, States, local governments, private organizations, and individuals for the use of lands for trail purposes, or (ii) acquire private lands or interests therein by donation, purchase with donated or appropriated funds or exchange in accordance with the provisions of subsection (g) of this section. The lands involved in such rights-of-way should be acquired in fee, if other methods of public control are not sufficient to assure their use for the purpose for which they are acquired: *Provided*, That if the Secretary charged with the administration of such trail permanently relocates the right-of-way and disposes of all title or interest in the land, the original owner, or his heirs or assigns, shall be offered, by notice given at the former owner's last known address, the right of first refusal at the fair market price.

[See main edition for text of (f)]

(g) Condemnation proceedings to acquire private lands; limitations; availability of funds for acquisition of lands or interests therein; acquisition of high potential, route segments or historic sites

The appropriate Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein pursuant to this section only in cases where, in his judgment, all reasonable efforts to acquire such lands or interests therein by negotiation have failed, and in such cases he shall acquire only such title as, in his judgment, is reasonably necessary to provide passage across such lands: *Provided*, That condemnation proceedings may not be utilized to acquire fee title or lesser interests to more than an average of one hundred and twenty-five acres per mile. Money appropriated for Federal purposes from the land and water conservation fund shall, without prejudice to appropriations from other sources, be available to Federal departments for the acquisition of lands or interests in lands for the purposes of this chapter. For national historic trails, direct Federal acquisition for trail purposes shall be limited to those areas indicated by the study report or by the comprehensive plan as high potential route segments or high potential historic sites.

(h) Development and maintenance of national, scenic or historic, trails; cooperation with states over portions located outside of federally administered areas; cooperative agreements; reservation of right-of-way for trails in conveyances by Secretary of the Interior

The Secretary charged with the administration of a national recreation, national scenic, or national historic trail shall provide for the development and maintenance of such trails within federally administered areas and shall cooperate with and encourage the States to operate, develop, and maintain portions of such trails which are located outside the boundaries of federally administered areas. When deemed to be in the public interest, such Secretary may enter written cooperative agreements with the States or their political subdivisions, landowners, private organizations, or individuals to operate, develop, and maintain any portion of a national scenic or national historic trail either within or outside a federally administered area. Whenever the Secretary of the Interior makes any conveyance of land under any of the public land laws, he may reserve a right-of-way for trails to the extent he deems necessary to carry out the purposes of this chapter.

(i) Regulations; issuance; concurrence and consultation; revision; publication; violations; penalties

The appropriate Secretary, with the concurrence of the heads of any other Federal agencies administering lands through which a national recreation, national scenic, or national historic trail passes, and after consultation with the States, local governments, and organizations concerned, may issue regulations, which may be revised from time to time, governing the use, protection, management, development, and administration of trails of the national trails system. In order to maintain good con-

duct on and along the trails located within federally administered areas and to provide for the proper government and protection of such trails, the Secretary of the Interior and the Secretary of Agriculture shall prescribe and publish such uniform regulations as they deem necessary and any person who violates such regulations shall be guilty of a misdemeanor, and may be punished by a fine of not more than $500, or by imprisonment not exceeding six months, or by both such fine and imprisonment.

(As amended Pub. L. 95-248, § 1(3), (4), Mar. 21, 1978, 92 Stat. 160; Pub. L. 95-625, title V, § 551(17)-(21), Nov. 10, 1978, 92 Stat. 3515, 3516.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625, § 551(17), substituted in first sentence "national scenic and national historic trails" for "National Scenic Trails".

Subsec. (b). Pub. L. 95-625, § 551(17), substituted "scenic or national historic" for "scenic" in two instances.

Subsec. (c). Pub. L. 95-625, § 551(17), (18), substituted: in first sentence "scenic or national historic" for "scenic", in second proviso "recreation, national scenic, or national historic" for "recreation or scenic" and in fifth sentence "recreation, national scenic, and national historic" for "recreation and scenic"; and inserted following fourth sentence trail markers provision.

Subsec. (d). Pub. L. 95-625, § 551(17), substituted "recreation, national scenic, or national historic" for "recreation or scenic".

Pub. L. 95-248, § 1(3), struck out proviso relating to acreage limitation of acquisition.

Subsec. (e). Pub. L. 95-625, § 551(17), (19), inserted "or national historic" following "scenic" in two instances and deleted from first proviso "within two years" preceding "after notice of the selection of the right-of-way".

Subsec. (g). Pub. L. 95-625, § 551(20), (21), deleted second proviso ": *Provided further*, That condemnation is prohibited with respect to all acquisition of lands or interest in lands for the purposes of the Pacific Crest Trail" following "connecting trail right-of-way" and added provision for acquisition of high potential, route segments or historic sites.

Pub. L. 95-248, § 1(4), substituted "an average of one hundred and twenty-five acres per mile" for "twenty-five acres in any one mile", and struck out limitation on exercise of authority with respect to a connecting trail right-of-way.

Subsec. (h). Pub. L. 95-625, § 551(17), substituted in first sentence "recreation, national scenic, or national historic" for "recreation or scenic", and in second sentence inserted "or national historic" after "scenic".

Subsec. (i). Pub. L. 95-625, § 551(17), substituted "recreation, national scenic, or national historic" for "recreation or scenic".

HISTORIC AND SCENIC TRAIL ADMINISTRATION; ALLOWANCE OF CERTAIN USES, INCLUDING MOTORIZED VEHICLES

Section 551(18) of Pub. L. 95-625 provided in part that: "Other uses along the historic trails and the Continental Divide National Scenic Trail, which will not substantially interfere with the nature and purposes of the trail, and which, at the time of designation, are allowed by administrative regulations, including the use of motorized vehicles, shall be permitted by the Secretary charged with the administration of the trail."

HISTORICALLY SIGNIFICANT LOCATIONS SUBJECT TO SECTION 1653(f) OF TITLE 49

Section 551(21) of Pub. L. 95-625 provided in part that: "No land or site located along a designated national historic trail or along the Continental Divide National Scenic Trail shall be subject to the provisions of section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)) unless such land or site is deemed to be of historical significance under appropriate historical site criteria such as those for the National Register of Historic Places."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1244 of this title.

§ 1247. State and local area recreation and historic trails

(a) Secretary of the Interior to encourage states, political subdivisions, and private interests; financial assistance for state and local projects

The Secretary of the Interior is directed to encourage States to consider, in their comprehensive statewide outdoor recreation plans and proposals for financial assistance for State and local projects submitted pursuant to the Land and Water Conservation Fund Act [16 U.S.C. 460*l*-4 et seq.], needs and opportunities for establishing park, forest, and other recreation and historic trails on lands owned or administered by States, and recreation and historic trails on lands in or near urban areas. The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended [16 U.S.C. 470 et seq.], needs and opportunities for establishing historic trails. He is further directed, in accordance with the authority contained in the Act of May 28, 1963 (77 Stat. 49) [16 U.S.C. 460*l* et seq.], to encourage States, political subdivisions, and private interests, including nonprofit organizations, to establish such trails.

[*See main edition for text of* (b) *to* (d)]

(As amended Pub. L. 95-625, title V, § 551(22), Nov. 10, 1978, 92 Stat. 3516.)

REFERENCES IN TEXT

Act of October 15, 1966, referred to in subsec. (a), is Pub. L. 89-665, as amended, popularly known as the "National Historic Preservation Act of 1966", which is classified to sections 470 to 470t of this title. For complete classification of this Act to the Code, see Short Title note set out under section 470 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 inserted "and historic" following "establishing park, forest, and other recreation" and "administered by States, and recreation", and directed the Secretary to encourage States to consider in their plans and proposals the needs and opportunities for establishing historic trails.

§ 1248. Easements and rights-of-way; conditions; cooperation of federal agencies with Secretary of the Interior and Secretary of Agriculture

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were

transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 1249. Authorization of appropriations

There are hereby authorized to be appropriated for the acquisition of lands or interests in lands not more than $5,000,000 for the Appalachian National Scenic Trail and not more than $500,000 for the Pacific Crest National Scenic Trail. From the appropriations authorized for fiscal year 1979 and succeeding fiscal years pursuant to the Land and Water Conservation Fund Act (78 Stat. 897), as amended [16 U.S.C. 460*l*-4 et seq.], not more than the following amounts may be expended for the acquisition of lands and interests in lands authorized to be acquired pursuant to the provisions of this chapter:

(a) The Appalachian National Scenic Trail, not to exceed $30,000,000 for fiscal year 1979, $30,000,000 for fiscal year 1980, and $30,000,000 for fiscal year 1981, except that the difference between the foregoing amounts and the actual appropriations in any one fiscal year shall be available for appropriation in subsequent fiscal years. It is the express intent of the Congress that the Secretary should substantially complete the land acquisition program necessary to insure the protection of the Trail within three complete fiscal years following March 21, 1978. Until the entire acquisition program is completed, he shall transmit in writing at the close of each fiscal year the following information to the Committee on Energy and Natural Resources of the Senate and to the Committee on Interior and Insular Affairs of the House of Representatives:

(A) the amount of land acquired during the fiscal year and the amount expended therefor;

(B) the estimated amount of land remaining to be acquired; and

(C) the amount of land planned for acquisition in the ensuing fiscal year and the estimated cost thereof.

(b) For the purposes of Public Law 95-42 (91 Stat. 211), the lands and interests therein acquired pursuant to this section shall be deemed to qualify for funding under the provisions of section 1, clause 2, of said Act [16 U.S.C. 460*l*-7].

(c) There is hereby authorized to be appropriated such sums as may be necessary to implement the provisions of this chapter relating to the trails designated by paragraphs 5(a)(3), (4), (5), (6), and (7): *Provided*, That no such funds are authorized to be appropriated prior to October 1, 1979: *And provided further*, That notwithstanding any other provisions of this chapter or any other provisions of law, no funds may be expended for the acquisition of lands or interests in lands for the Continental Divide National Scenic Trail, the Oregon National Historic Trail, the Mormon Pioneer National Historic Trail, the Lewis and Clark National Historic Trail, and the Iditarod National Historic Trail.

(As amended Pub. L. 95-248, § 1(5), Mar. 21, 1978, 92 Stat. 160; Pub. L. 95-625, title V, § 551(23), Nov. 10, 1978, 92 Stat. 3517.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act (78 Stat. 897), as amended, referred to in provision preceding subsec. (a), probably means the Land and Water Conservation Fund Act of 1965, Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of this title and Tables.

Pub. L. 95-42 (91 Stat. 211), referred to in subsec. (b), is Pub. L. 95-42, June 10, 1977, 91 Stat. 210, which, to the extent classified to the Code, amended sections 460*l*-5, 460*l*-7, and 460*l*-9 of this title. Section 1, clause 2 of said Act amended section 460*l*-7 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

Pub. L. 95-248 added provisions relating to determinations respecting appropriations authorized for fiscal year 1979 and succeeding fiscal years.

Subsec. (a). Pub. L. 95-625 deleted par. (1) designation, substituted "in subsequent fiscal years" for "in the subsequent fiscal year" and deleted par. (2) which provided for transmission of a report to Congressional committees by the Appalachian Trail Conference at the close of each fiscal year, until entire acquisition program was completed, covering conduct of negotiations for acquisition program and whether larger interests in land were being acquired than were necessary for the purposes of this chapter.

Subsec. (c). Pub. L. 95-625 added subsec. (c).

CHAPTER 28—WILD AND SCENIC RIVERS

Sec.
1285a. Lease of federal lands [New].
(a) Authority of Secretary; restrictive covenants.
(b) Offer to prior owner.

§ 1273. National wild and scenic rivers system; Congressional authorization for inclusion; designation by State legislatures; permanent administration by States; application for inclusion by Governors; satisfaction of criteria; eligibility for inclusion; notification of Federal Energy Regulatory Commission; publication in Federal Register; expense to the United States; federally owned lands within boundaries of State rivers

(a) The national wild and scenic rivers system shall comprise rivers (i) that are authorized for inclusion therein by Act of Congress, or (ii) that are designated as wild, scenic or recreational rivers by or pursuant to an act of the legislature of the State or States through which they flow, that are to be permanently administered as wild, scenic or recreational rivers by an agency or political subdivision of the State or States concerned that are found by the Secretary of the Interior, upon application of the Governor of the State or the Governors of the States concerned, or a person or persons thereunto duly appointed by him or them, to meet the criteria established in this chapter and such criteria supplementary thereto as he may prescribe, and that are approved by him for inclusion in the system, including, upon application of the Governor of the State concerned, the Allagash Wilderness Waterway,

Maine; that segment of the Wolf River, Wisconsin, which flows through Langlade County; and that segment of the New River in North Carolina extending from its confluence with Dog Creek downstream approximately 26.5 miles to the Virginia State line. Upon receipt of an application under clause (ii) of this subsection, the Secretary shall notify the Federal Energy Regulatory Commission and publish such application in the Federal Register. Each river designated under clause (ii) shall be administered by the State or political subdivision thereof without expense to the United States other than for administration and management of federally owned lands. For purposes of the preceding sentence, amounts made available to any State or political subdivision under the Land and Water Conservation Act of 1965 [16 U.S.C. 460*l*-4 et seq.] or any other provision of law shall not be treated as an expense to the United States. Nothing in this subsection shall be construed to provide for the transfer to, or administration by, a State or local authority of any federally owned lands which are within the boundaries of any river included within the system under clause (ii).

[*See main edition for text of* (*b*)]

(As amended Pub. L. 95-625, title VII, § 761, Nov. 10, 1978, 92 Stat. 3533.)

REFERENCES IN TEXT

The Land and Water Conservation Fund Act of 1965, referred to in subsec. (a), is Pub. L. 88-578, Sept. 3, 1964, 78 Stat. 897, as amended, which is classified generally to part B (§ 460*l*-4 et seq.) of subchapter LXIX of chapter 1 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 460*l*-4 of this title and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 provided for notification of the Federal Energy Regulatory Commission and publication of any application in the Federal Register; made it an expense of the United States for administration and management of federally owned lands; treated amounts available to the States under provisions of law not as an expense of the United States; and made federally owned lands within boundaries of State rivers free of ownership or administration of State or local authority.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1274, 1278, 1283 of this title.

§ 1274. Component rivers and adjacent lands; establishment of boundaries; classification; development plans

(a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

[*See main edition for text of* (*1*) *to* (*9*)]

(10) CHATTOOGA, NORTH CAROLINA, SOUTH CAROLINA, GEORGIA—The Segment from 0.8 mile below Cashiers Lake in North Carolina to Tugaloo Reservoir, and the West Fork Chattooga River from its junction with Chattooga upstream 7.3 miles, as generally depicted on the boundary map entitled "Proposed Wild and Scenic Chattooga River and Corridor Boundary", dated August 1973; to be administered by the Secretary of Agriculture: *Provided*, That the Secretary of Agriculture shall take such action as is provided for under subsection (b) of this section within one year from May 10, 1974: *Provided further*, That for the purposes of this river, there are authorized to be appropriated not more than $5,200,000 for the acquisition of lands and interests in lands and not more than $809,000 for development.

[*See main edition for text of* (*11*) *to* (*15*)]

(16) PERE MARQUETTE, MICHIGAN—The segment downstream from the junction of the Middle and Little South Branches to its junction with United States Highway 31 as generally depicted on the boundary map entitled "Proposed Boundary Location, Pere Marquette Wild and Scenic River."; to be administered by the Secretary of Agriculture. After consultation with State and local governments and the interested public, the Secretary shall take such action as is provided for under subsection (b) of this section with respect to the segment referred to in this paragraph within one year from November 10, 1978. Any development or management plan prepared pursuant to subsection (b) of this section shall include (a) provisions for the dissemination of information to river users and (b) such regulations relating to the recreational and other uses of the river as may be necessary in order to protect the area comprising such river (including lands contiguous or adjacent thereto) from damage or destruction by reason of overuse and to protect its scenic, historic, esthetic and scientific values. Such regulations shall further contain procedures and means which shall be utilized in the enforcement of such development and management plan. For the purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated not more than $8,125,000 for the acquisition of lands or interests in lands and $402,000 for development.

(17) RIO GRANDE, TEXAS—The segment on the United States side of the river from river mile 842.3 above Mariscal Canyon downstream to river mile 651.1 at the Terrell-Val Verde County line; to be administered by the Secretary of the Interior. The Secretary shall, within two years after November 10, 1978, take such action with respect to the segment referred to in this paragraph as is provided for under subsection (b) of this section. The action required by such subsection (b) shall be undertaken by the Secretary, after consultation with the United States Commissioner, International Boundary and Water Commission, United States and Mexico, and appropriate officials of the State of Texas and its political subdivisions. The development plan required by subsection (b) of this section shall be construed to be a general management plan only for the United States side of the river and such plan shall include, but not be limited to, the establishment of a detailed boundary which shall include an average of not more than 160 acres per mile. Nothing in this chapter shall be construed to be in conflict with—

(A) the commitments or agreements of the United States made by or in pursuance of the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande, signed at Washington, February 1944 (59 Stat. 1219), or

(B) the treaty between the United States and Mexico regarding maintenance of the Rio Grande and Colorado River as the international boundary between the United States and Mexico, signed November 23, 1970.

For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not more than $1,650,000 for the acquisition of lands and interests in lands and not more than $1,800,000 for development.

(18) SKAGIT, WASHINGTON—The segment from the pipeline crossing at Sedro-Woolley upstream to and including the mouth of Bacon Creek; the Cascade River from its mouth to the junction of its North and South Forks; the South Fork to the boundary of the Glacier Peak Wilderness Area; the Suiattle River from its mouth to the boundary of the Glacier Peak Wilderness Area at Milk Creek; the Sauk River from its mouth to its junction with Elliott Creek; the North Fork of the Sauk River from its junction with the South Fork of the Sauk to the boundary of the Glacier Peak Wilderness Area; as generally depicted on the boundary map entitled "Skagit River—River Area Boundary"; all segments to be administered by the Secretary of Agriculture. Riprapping related to natural channels with natural rock along the shorelines of the Skagit segment to preserve and protect agricultural land shall not be considered inconsistent with the values for which such segment is designated. After consultation with affected Federal agencies, State and local government and the interested public, the Secretary shall take such action as is provided for under subsection (b) of this section with respect to the segments referred to in this paragraph within one year from November 10, 1978; as part of such action, the Secretary of Agriculture shall investigate that portion of the North Fork of the Cascade River from its confluence with the South Fork to the boundary of the North Cascades National Park and if such portion is found to qualify for inclusion, it shall be treated as a component of the Wild and Scenic Rivers System designated under this section upon publication by the Secretary of notification to that effect in the Federal Register. For the purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph there are authorized to be appropriated not more than $11,734,000 for the acquisition of lands or interest in lands and not more than $332,000 for development.

(19) UPPER DELAWARE RIVER, NEW YORK AND PENNSYLVANIA—The segment of the Upper Delaware River from the confluence of the East and West branches below Hancock, New York, to the existing railroad bridge immediately downstream of Cherry Island in the vicinity of Sparrow Bush, New York, as depicted on the boundary map entitled "The Upper Delaware Scenic and Recreational River", dated April 1978; to be administered by the Secretary of the Interior. Subsection (b) of this section shall not apply, and the boundaries and classifications of the river shall be as specified on the map referred to in the preceding sentence, except to the extent that such boundaries or classifications are modified pursuant to section 705(c) of the National Parks and Recreation Act of 1978. Such boundaries and classifications shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph there are authorized to be appropriated such sums as may be necessary.

(20) DELAWARE, NEW YORK, PENNSYLVANIA, AND NEW JERSEY—The segment from the point where the river crosses the northern boundary of the Delaware Water Gap National Recreation Area to the point where the river crosses the southern boundary of such recreation area; to be administered by the Secretary of the Interior. For purposes of carrying out this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated such sums as may be necessary. Action required to be taken under subsection (b) of this section with respect to such segment shall be taken within one year from November 10, 1978, except that, with respect to such segment, in lieu of the boundaries provided for in such subsection (b), the boundaries shall be the banks of the river. Any visitors facilities established for purposes of use and enjoyment of the river under the authority of the Act establishing the Delaware Water Gap National Recreation Area [16 U.S.C. 460o et seq.]. shall be compatible with the purposes of this chapter and shall be located at an appropriate distance from the river.

(21) AMERICAN, CALIFORNIA—The North Fork from a point 0.3 mile above Heath Springs downstream to a point approximately 1,000 feet upstream of the Colfax-Iowa Hill Bridge, including the Gold Run Addition Area, as generally depicted on the map entitled "Proposed Boundary Maps" contained in Appendix I of the document dated January 1978 and entitled "A Proposal: North Fork American Wild and Scenic River" published by the United States Forest Service, Department of Agriculture; to be designated as a wild river and to be administered by agencies of the Departments of Interior and Agriculture as agreed upon by the Secretaries of such Departments or as directed by the President. Action required to be taken under subsection (b) shall be taken within one year after November 10, 1978; in applying such subsection (b) in the case of the Gold Run Addition Area, the acreage limitation specified therein shall not apply and in applying section 1277(g)(3) of this title, January 1, 1977 shall be substituted for January 1, 1967. For purposes of carrying out the provisions of this chapter with respect to the river designated by this para-

graph, there are authorized to be appropriated not more than $850,000 for the acquisition of lands and interests in land and not more than $765,000 for development.

(22) MISSOURI RIVER, NEBRASKA, SOUTH DAKOTA—The segment from Gavins Point Dam, South Dakota, fifty-nine miles downstream to Ponca State Park, Nebraska, as generally depicted in the document entitled "Review Report for Water Resources Development, South Dakota, Nebraska, North Dakota, Montana", prepared by the Division Engineer, Missouri River Division, Corps of Engineers, dated August 1977 (hereinafter in this paragraph referred to as the "August 1977 Report"). Such segment shall be administered as a recreational river by the Secretary. The Secretary shall enter into a written cooperative agreement with the Secretary of the Army (acting through the Chief of Engineers) for construction and maintenance of bank stabilization work and appropriate recreational development. After public notice and consultation with the State and local governments, other interested organizations and associations, and the interested public, the Secretary shall take such action as is required pursuant to subsection (b) of this section within one year from November 10, 1978. In administering such river, the Secretary shall, to the extent, and in a manner, consistent with this section—

(A) provide (i) for the construction by the United States of such recreation river features and streambank stabilization structures as the Secretary of the Army (acting through the Chief of Engineers) deems necessary and advisable in connection with the segment designated by this paragraph, and (ii) for the operation and maintenance of all streambank stabilization structures constructed in connection with such segment (including both structures constructed before November 10, 1978, and structures constructed after such date, and including both structures constructed under the authority of this section and structures constructed under the authority of any other Act); and

(B) permit access for such pumping and associated pipelines as may be necessary to assure an adequate supply of water for owners of land adjacent to such segment and for fish, wildlife, and recreational uses outside the river corridor established pursuant to this paragraph.

The streambank structures to be constructed and maintained under subparagraph (A) shall include, but not be limited to, structures at such sites as are specified with respect to such segment on pages 62 and 63 of the August 1977 Report, except that sites for such structures may be relocated to the extent deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) by reason of physical changes in the river or river area. The Secretary of the Army (acting through the Chief of Engineers) shall condition the construction or maintenance of any streambank stabilization structure or of any recreational river feature at any site under subparagraph (A)(i) upon the availability to the United States of such land and interests in land in such ownership as he deems necessary to carry out such construction or maintenance and to protect and enhance the river in accordance with the purposes of this chapter. Administration of the river segment designated by this paragraph shall be in coordination with, and pursuant to the advice of a Recreational River Advisory Group which may be established by the Secretary. Such Group may include in its membership, representatives of the affected States and political subdivisions thereof, affected Federal agencies, and such organized private groups as the Secretary deems desirable. Notwithstanding the authority to the contrary contained in section 1277(a) of this title, no land or interests in land may be acquired without the consent of the owner: *Provided*, That not to exceed 5 per centum of the acreage within the designated river boundaries may be acquired in less than fee title without the consent of the owner, in such instance of the Secretary's determination that activities are occurring, or threatening to occur thereon which constitute serious damage or threat to the integrity of the river corridor, in accordance with the values for which this river was designated. For purposes of carrying out the provisions of this chapter with respect to the river designated by this paragraph, there are authorized to be appropriated not to exceed $21,000,000, for acquisition of lands and interests in lands and for development.

(23) SAINT JOE, IDAHO—The segment above the confluence of the North Fork of the Saint Joe River to Spruce Tree Campground, as a recreational river; the segment above Spruce Tree Campground to Saint Joe Lake, as a wild river, as generally depicted on the map entitled "Saint Joe River Corridor Map" on file with the Chief of the Forest Service and dated September 1978; to be administered by the Secretary of Agriculture. Notwithstanding any other provision of law, the classification of the Saint Joe River under this paragraph and the subsequent development plan for the river prepared by the Secretary of Agriculture shall at no time interfere with or restrict the maintenance, use, or access to existing or future roads within the adjacent lands nor interfere with or restrict present use of or future construction of bridges across that portion of the Saint Joe designated as a "recreational river" under this paragraph. Dredge or placer mining shall be prohibited within the banks or beds of the main stem of the Saint Joe and its tributary streams in their entirety above the confluence of the main stem with the North Fork of the river. Nothing in this chapter shall be deemed to prohibit the removal of sand and gravel above the high water mark of the Saint Joe River and its tributaries within the river corridor by or under the authority of any public body or its agents for the purposes of construction or maintenance of roads. The Secretary shall take such action as is required under subsection (b) of this section within one year from November 10, 1978. For the purposes of this river, there are authorized to be appropriated not more than $1,000,000 for the acquisition of lands or interest in lands.

(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsec-

tion (a) of this section shall, within one year from October 2, 1968 (except where a different date is provided in subsection (a) of this section), establish detailed boundaries therefor (which boundaries shall include an average of not more than three hundred and twenty acres per mile on both sides of the river); determine which of the classes outlined in section 1273(b) of this title best fit the river or its various segments; and prepare a plan for necessary developments in connection with its administration in accordance with such classification. Said boundaries, classification, and development plans shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.

(As amended Pub. L. 95-625, title VII, §§ 701-704(a), 705-708, 755, 763(a), Nov. 10, 1978, 92 Stat. 3521-3523, 3527-3529, 3533.)

REFERENCES IN TEXT

Section 705(c) of the National Parks and Recreation Act of 1978, referred to in subsec. (a)(19), probably means section 704(c), Pub. L. 95-625, Nov. 10, 1978, 92 Stat. 3524, which is set out under this section in a note captioned "Upper Delaware Segment Special Provisions".

The Act establishing the Delaware Water Gap National Recreation Area, referred to in subsec. (a)(20), is Pub. L. 89-158, Sept. 1, 1965, 79 Stat. 612, which is classified generally to subchapter LXXIII (§ 460o et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1978 Subsec. (a)(10). Pub. L. 95-625, § 755, increased appropriations authorization for Chattooga River to $5,200,000 from $2,000,000.

Subsec. (a)(16) to (23). Pub. L. 95-625, §§ 701-703, 704(a), 705-708, added pars. (16) to (23).

Subsec. (b). Pub. L. 95-625, § 763(a), inserted parenthetical phrase "(except where a different date is provided in subsection (a) of this section)" following "one year from October 2, 1968".

UPPER DELAWARE SEGMENT SPECIAL PROVISIONS

Section 704(b) to (j) of Pub. L. 95-625 provided that:

"(b)(1) Notwithstanding any requirement to the contrary contained in section 6(c) of the Wild and Scenic Rivers Act [section 1277(c) of this title] within one hundred and eighty days after the date of enactment of this Act [Nov. 10, 1978], the Secretary shall publish in the Federal Register general guidelines for land and water use control measures to be developed and implemented by the appropriate officials of the States of New York and Pennsylvania (hereinafter referred to as the 'directly affected States'), by the local political subdivisions, and by the Delaware River Basin Commission (hereinafter referred to as the 'Commission'). The Secretary shall provide for participation in the development of the said general guidelines by all levels of States, county, and local government, and concerned private individuals and organizations, and also shall seek the advice of the Upper Delaware Citizens Advisory Council established in subsection (f) (hereinafter referred to as the 'Advisory Council'). In each of the directly affected States, prior to publication of such general guidelines, public hearings shall be conducted by the Secretary or his designee, in the region of the Upper Delaware River designated by subsection (a) [adding subsec. (a)(19) of this section] (hereinafter in this section referred to as the 'Upper Delaware River').

"(2) The Secretary may from time to time adopt amended or revised guidelines and shall do so in accordance with the provisions of paragraph (1) hereof.

(c)(1) Within three years from the date of the enactment of this Act [Nov. 10, 1978], the Secretary, in cooperation with the Commission, the Advisory Council, the directly affected States and their concerned political subdivisions and other concerned Federal agencies, shall develop, approve, and submit to the Governors of the directly affected States a management plan (hereinafter in this section referred to as the 'management plan' or 'the plan') for the Upper Delaware River which shall provide for as broad a range of land and water uses and scenic and recreational activities as shall be compatible with the provisions of this section, the Wild and Scenic Rivers Act [this chapter], and the general guidelines for land and water use controls promulgated by the Secretary under the provisions of subsection (b).

"(2) The plan shall apply to the Upper Delaware River and shall set forth—

"(A) a map showing detailed final landward boundaries, and upper and lower termini of the area and the specific segments of the river classified as scenic and recreational, to be administered in accordance with such classifications;

"(B) a program for management of existing and future land and water use, including the application of available management techniques;

"(C) an analysis of the economic and environmental costs and benefits of implementing the management plan including any impact of the plan upon revenues and costs of local government;

"(D) a program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, regional, State, and local levels; and

"(E) such other recommendations or provisions as shall be deemed appropriate to carry out the purposes of this section.

"(3) Immediately following enactment of this Act [Nov. 10, 1978], the Secretary, through the National Park Service or such other designee, shall develop and implement such interim programs as he shall deem necessary and appropriate to protect the Upper Delaware River and its environs and to protect the public health and safety. Such interim programs shall include provisions for information to river users, education and interpretation activities, and regulation of recreational use of the river.

"(4) To enable the directly affected States and their political subdivisions to develop and implement programs compatible with the management plan, the Secretary shall provide such technical assistance to the said States and their political subdivisions as he deems appropriate.

"(5) The Secretary shall promote public awareness of and participation in the development of the management plan, and shall develop and conduct a concerted program to this end. Prior to final approval of the management plan, the Secretary shall hold two or more public hearings in the Upper Delaware River region of each directly affected State.

"(6) Upon approval of the management plan by the Secretary, it shall be published in the Federal Register and shall not become effective until ninety days after it shall have been forwarded to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The plan shall be administered by the Secretary in accordance with the provisions of this section and the Wild and Scenic Rivers Act [this chapter]. The Secretary is hereby granted such authority as may be required to implement and administer said plan.

"(d) Notwithstanding any provisions of the Wild and Scenic Rivers Act [this chapter], the Secretary may not acquire more than a total of four hundred and fifty acres of land and interests in land for access, de-

velopment sites, the preservation of scenic qualities, or for any other purposes: *Provided*, That the Secretary may acquire additional land and interests in land for such purposes not in excess of one thousand acres if such additional acquisition is recommended and provided for in the management plan as finally approved by the Secretary. The limitations contained in this section shall not apply under the circumstances set forth in subsection (e)(4) of this section. Prior to acquisition of any land or interests in land which has been used for business purposes during the annual period immediately preceding the date of the enactment of this Act [Nov. 10, 1978], the Secretary shall first make such efforts as he deems reasonable to acquire easements or restrictive covenants, or to enter into any other appropriate agreements or arrangements with the owners of said land, consistent with the purposes of this section.

"(e)(1) For the purpose of protecting the integrity of the Upper Delaware River, the Secretary shall review all relevant local plans, laws, and ordinances to determine whether they substantially conform to the approved management plan provided for in subsection (c) and to the general guidelines promulgated by the Secretary pursuant to subsection (b). Additionally, the Secretary shall determine the adequacy of enforcement of such plans, laws, and ordinances, including but not limited to review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances.

"(2) The purpose of such reviews shall be to determine the degree to which actions by local governments are compatible with the purposes of this section. Following the approval of the management plan and after a reasonable period of time has elapsed, but not less than two years, upon a finding by the Secretary that such plans, laws, and ordinances are nonexistent, are otherwise not in conformance with the management plan or guidelines, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary may exercise the authority available to him under the provisions of paragraph (4) hereof.

"(3) To facilitate administration of this section, the Secretary may contract with the directly affected States or their political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of relevant local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring of the enforcement thereof by local governments having jurisdiction over any area in the region to which the management plan applies. The Secretary shall notify the appropriate State or local officials as to the results of his review under this section within forty-five days from the date he receives notice of the local government action.

"(4) In those sections of the Upper Delaware River where such local plans, laws, and ordinances, or amendments thereto or variances therefrom, are found by the Secretary not to be in conformance with the guidelines or the management plan promulgated pursuant to subsections (b) and (c) of this section, respectively, or are not being enforced in such manner as will carry out the purposes of this section (as determined by the Secretary), the Secretary is hereby authorized to acquire land or interests in land in excess of the acreage provided for in subsection (d) of this section. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local governmental unit failing to conform with the said guidelines or management plan, and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for protection of the objectives of this Act [see Short Title of 1978 Amendment note set out under section 1 of this title]. The total acreage of land and interests in land acquired pursuant to this subsection shall not in any event exceed the limitations contained in section 6(a) of the Wild and Scenic Rivers Act [section 1277(a) of this title]. This subsection shall apply notwithstanding the first sentence of section 6(c) of the Wild and Scenic Rivers Act [section 1277(c) of this title]. Notwithstanding any limitation on amounts authorized to be appropriated for acquisition of land and interests in land which is contained in section 3(a)(21) of the Wild and Scenic Rivers Act [subsec. (a)(21) of this section] or in any other provision of law, there are authorized to be appropriated such sums as may be necessary to carry out this subsection.

"(f)(1) At the earliest practicable date following enactment of this Act [Nov. 10, 1978], but no later than one hundred and twenty days thereafter, there shall be established an Upper Delaware Citizens Advisory Council. The Advisory Council shall encourage maximum public involvement in the development and implementation of the plans and programs authorized by this section. It shall report to the Commission and the Secretary from time to time during preparation of the management plan. Following completion of the management plan, it shall report to the Secretary and the Governors of the directly affected States no less frequently than once each year its recommendations, if any, for improvement in the programs authorized by this Act [see Short Title of 1978 Amendment note set out under section 1 of this title], or in the programs of other agencies which may relate to land or water use in the Upper Delaware River region.

"(2) Membership on the Advisory Council shall consist of seventeen members appointed as follows: there shall be—

"(A) six members from each of the directly affected States appointed by the Secretary from nominations submitted by the legislatures of the respective counties and appointed such that two members shall be from each of Orange, Delaware, and Sullivan Counties, New York, and three members shall be from each of Wayne and Pike Counties, Pennsylvania (at least one appointee from each county shall be a permanent resident of a municipality abutting the Upper Delaware River);

"(B) two members appointed at large by each Governor of a directly affected State; and

"(C) one member appointed by the Secretary.

The Secretary shall designate one of the aforesaid members to serve as Chairperson of the Advisory Council who shall be a permanent resident of one of the aforementioned counties. Vacancies on the Advisory Council shall be filled in the same manner in which the original appointment was made. Members of the Advisory Council shall serve without compensation as such, but the Secretary is authorized to pay expenses reasonably incurred by the Advisory Council in carrying out its responsibilities under this Act [see Short Title of 1978 Amendment note set out under section 1 of this title] on vouchers signed by the Chairman.

"(g) With respect to the land and water in areas which are not owned by the United States but which are within the boundaries of the segment of the Delaware River designated as a wild and scenic river under subsection (a) [adding subsec. (a)(19) of this section], the Secretary is authorized to enter into contracts with the appropriate State or political subdivisions thereof pursuant to which the Secretary may provide financial assistance to such State or political subdivision for purposes of—

"(1) enforcing State and local laws in such areas, and

"(2) removing solid waste from such areas and disposing of such waste.

"(h) Nothing in this section shall be construed as limiting the right to fish and hunt on any of the lands or waters within the boundaries of the Upper Delaware River in the manner provided in section 13 of the Wild and Scenic Rivers Act [section 1284 of this title].

"(i) There are hereby authorized to be appropriated to carry out the purposes of this section such sums as may be necessary.

"(j) Where any provision of the Wild and Scenic Rivers Act [this chapter] is inconsistent with any provisions of this section, the provision of this section

shall govern. In applying the provisions of section 6(g)(3) of the Wild and Scenic Rivers Act [section 1277(g)(3) of this title], with regard to 'improved property', the date specified therein, shall, for purposes of the river designated in this Act [see Short Title of 1978 Amendment note set out under section 1 of this title], be the date of enactment of this Act [Nov. 10, 1978] (rather than January 1, 1967)."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg, 460gg-4, 1277 to 1280, 1283, 1287 of this title.

§ 1275. Additions to national wild and scenic rivers system

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions, personnel, property, funds, etc., were transferred to the Secretary of Energy (except for certain functions which were transferred to the Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42, The Public Health and Welfare.

§ 1276. Rivers constituting potential additions to national wild and scenic rivers system

(a) Enumeration of designated rivers

The following rivers are hereby designated for potential addition to the national wild and scenic rivers system:

[*See main edition for text of (1) to (58)*]

(59) Kern, California: The main stem of the North Fork from its source to Isabella Reservoir excluding its tributaries.

(60) Loxahatchee, Florida: The entire river including its tributary, North Fork.

(61) Ogeechee, Georgia: The entire river.

(62) Salt, Arizona: The main stem from a point on the north side of the river intersected by the Fort Apache Indian Reservation boundary (north of Buck Mountain) downstream to Arizona State Highway 288.

(63) Verde, Arizona: The main stem from the Prescott National Forest boundary near Paulden to the vicinity of Table Mountain, approximately 14 miles above Horseshoe Reservoir, except for the segment not included in the national forest between Clarkdale and Camp Verde, North segment.

(64) San Francisco, Arizona: The main stem from confluence with the Gila upstream to the Arizona-New Mexico border, except for the segment between Clifton and the Apache National Forest.

(65) Fish Creek, New York: The entire East Branch.

(66) Black Creek, Mississippi: The segment from Big Creek Landing in Forrest County downstream to Old Alexander Bridge Landing in Stone County.

(67) Allegheny, Pennsylvania: The main stem from Kinzua Dam downstream to East Brady.

(68) Cacapon, West Virginia: The entire river.

(69) Escatawpa, Alabama and Mississippi: The segment upstream from a point approximately one mile downstream from the confluence of the Escatawpa River and Jackson Creek to a point where the Escatawpa River is joined by the Yellowhouse Branch in Washington County, Alabama, near the town of Deer Park, Alabama; and the segment of Brushy Creek upstream from its confluence with the Escatawpa to its confluence with Scarsborough Creek.

(70) Myakka, Florida: The segment south of the southern boundary of the Myakka River State Park.

(71) Soldier Creek, Alabama: The segment beginning at the point where Soldier Creek intersects the south line of section 31, township 7 south, range 6 east, downstream to a point on the south line of section 6, township 8 south, range 6 east, which point is 1,322 feet west of the south line of section 5, township 8 south, range 6 east in the county of Baldwin, State of Alabama.

(72) Red, Kentucky: The segment from Highway numbered 746 (also known as Spradlin Bridge) in Wolf County, Kentucky, downstream to the point where the river descends below seven hundred feet above sea level (in its normal flow) which point is at the Menifee and Powell County line just downstream of the iron bridge where Kentucky Highway numbered 77 passes over the river.

(73) Bluestone, West Virginia: From its headwaters to its confluence with the New.

(74) Gauley, West Virginia: Including the tributaries of the Meadow and the Cranberry, from the headwaters to its confluence with the New.

(75) Greenbrier, West Virginia: From its headwaters to its confluence with the New.

(b) Studies and reports

[*See main edition for text of (1) and (2)*]

(3) The studies of the rivers named in paragraphs (59) through (72) of subsection (a) of this section shall be completed and reports submitted thereon not later than five full fiscal years after November 10, 1978. The study of rivers named in paragraphs (62) through (64) of subsection (a) of this section shall be completed and the report thereon submitted by not later than April 1981.

(4) There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (28) through (56) such sums as may be necessary, but not more than $4,060,000. There are authorized to be appropriated for the purpose of conducting the studies of the rivers named in subparagraphs (59) through (74) such sums as may be necessary.

[*See main edition for text of (c) and (d)*]

(As amended Pub. L. 95-625, title VII, §§ 721-736, title XI, § 1108, Nov. 10, 1978, 92 Stat. 3530-3532, 3547.)

AMENDMENTS

1978—Subsec. (a)(59) to (75). Pub. L. 95-625, §§ 721-734, 1108, added pars. (59) to (75).

Subsec. (b)(3). Pub. L. 95-625, § 736, added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 95-625, § 735, redesignated as par. (4) former par. (3), and in par. (4) as redesignated increased appropriations authorization for certain studies to $4,060,000 from $2,175,000 and authorized necessary appropriations for certain other river studies.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460gg-13, 1275, 1278, 1279, 1280, 1283 of this title; title 30 section 1272.

§ 1277. Land acquisition

[See main edition for text of (a) to (f)]

(g) Retained right of use and occupancy; termination; fair market value; improved property

[See main edition for text of (1) and (2)]

(3) The term "improved property", as used in this chapter, means a detached, one-family dwelling (hereinafter referred to as "dwelling"), the construction of which was begun before January 1, 1967, (except where a different date is specifically provided by law with respect to any particular river) together with so much of the land on which the dwelling is situated, the said land being in the same ownership as the dwelling, as the appropriate Secretary shall designate to be reasonably necessary for the enjoyment of the dwelling for the sole purpose of noncommercial residential use, together with any structures accessory to the dwelling which are situated on the land so designated.

(As amended Pub. L. 95-625, title VII, § 763(b), Nov. 10, 1978, 92 Stat. 3533.)

AMENDMENTS

1978—Subsec. (g)(3). Pub. L. 95-625 inserted parenthetical phrase "(except where a different date is specifically provided by law with respect to any particular river)" following "January 1, 1967,".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1274 of this title.

§ 1278. Restrictions on water resources projects

TRANSFER OF FUNCTIONS

The Federal Power Commission was terminated and its functions with regard to licenses and permits for dams, reservoirs, or other works for the development and improvement of navigation and for the development and utilization of power across, along, from, or in navigable waters under part I of the Federal Power Act, section 792 et seq. of Title 16, Conservation, were transferred to the Federal Energy Regulatory Commission by sections 7172(a)(1)(A) and 7293 of Title 42, The Public Health and Welfare.

§ 1283. Management policies

(a) Action of Secretaries and heads of agencies; cooperative agreements

The Secretary of the Interior, the Secretary of Agriculture, and the head of any other Federal department or agency having jurisdiction over any lands which include, border upon, or are adjacent to, any river included within the National Wild and Scenic Rivers System or under consideration for such inclusion, in accordance with section 1273(a)(ii), 1274(a), or 1276(a) of this title, shall take such action respecting management policies, regulations, contracts, plans, affecting such lands, following November 10, 1978, as may be necessary to protect such rivers in accordance with the purposes of this chapter. Such Secretary or other department or agency head shall, where appropriate, enter into written cooperative agreements with the appropriate State or local official for the planning, administration, and management of Federal lands which are within the boundaries of any rivers for which approval has been granted under section 1273(a)(ii) of this title. Particular attention shall be given to scheduled timber harvesting, road construction, and similar activities which might be contrary to the purposes of this chapter.

[See main edition for text of (b) and (c)]

(As amended Pub. L. 95-625, title VII, § 762, Nov. 10, 1978, 92 Stat. 3533.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-625 substituted provision for action to be taken by the Secretaries and heads of agencies for prior provision for review by such officials, made the provision applicable to rivers included within the System, included references to rivers covered in sections 1273(a)(ii) and 1274(a) of this title, and required cooperative agreements with appropriate State or local officials for planning, administration, and management of Federal lands within boundaries of rivers approved under section 1273(a)(ii) of this title.

§ 1285a. Lease of federal lands

(a) Authority of Secretary; restrictive covenants

Where appropriate in the discretion of the Secretary, he may lease federally owned land (or any interest therein) which is within the boundaries of any component of the National Wild and Scenic Rivers System and which has been acquired by the Secretary under this chapter. Such lease shall be subject to such restrictive covenants as may be necessary to carry out the purposes of this chapter.

(b) Offer to prior owner

Any land to be leased by the Secretary under this section shall be offered first for such lease to the person who owned such land immediately before its acquisition by the United States.

(Pub. L. 90-542, § 14A, as added Pub. L. 95-625, title VII, § 764, Nov. 10, 1978, 92 Stat. 3534.)

§ 1287. Authorization of appropriations

There are hereby authorized to be appropriated, including such sums as have heretofore been appropriated, the following amounts for land acquisition for each of the rivers (described in section 1274(a) of this title):

Clearwater, Middle Fork, Idaho, $2,909,800;
Eleven Point, Missouri, $10,407,000;
Feather Middle Fork, California, $3,935,700;
Rio Grande, New Mexico, $253,000;
Rogue, Oregon, $15,147,000;
St. Croix, Minnesota and Wisconsin, $21,769,000;
Salmon Middle Fork, Idaho, $1,837,000;
Wolf, Wisconsin, $142,150.

(As amended Pub. L. 95-625, title VII, §§ 751-754, 763(c), Nov. 10, 1978, 92 Stat. 3532, 3533.)

AMENDMENTS

1978—Pub. L. 95-625, §§ 751-754, 763(c), increased appropriations authorization for the following rivers, substituting for:

Eleven Point, $10,407,000 for $4,906,500;
Rogue, $15,147,000 for $12,447,200;

Saint Croix, $21,769,000 for $11,768,550; and
Salmon, $1,837,000 for $1,237,100; and
struck out subsec. (a) designation and subsec. (b) provision for expiration of authority to make authorized appropriations on Sept. 30, 1979.

CHAPTER 29—WATER BANK PROGRAM FOR WETLANDS PRESERVATION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1501, 1503 of this title; title 26 section 126.

CHAPTER 30—WILD HORSES AND BURROS: PROTECTION, MANAGEMENT, AND CONTROL

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 43 section 1901.

§ 1331. Congressional finds and declaration of policy

SHORT TITLE

Pub. L. 92-195, Dec. 15, 1971, 85 Stat. 649, which enacted this chapter, is popularly known as the Wild Free-Roaming Horses and Burros Act

§ 1332. Definitions

As used in this chapter—

[*See main edition for text of* (a) *to* (e)]

(f) "excess animals" means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.

(As amended Pub. L. 95-514, § 14(b), Oct. 25, 1978, 92 Stat. 1810.)

AMENDMENTS

1978—Subsec. (f). Pub. L. 95-514 added subsec. (f).

§ 1333. Powers and duties of Secretary

[*See main edition for text of* (a)]

(b) Inventory and determinations; consultation; overpopulation; research study: submittal to Congress

(1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on given areas of the public lands. The purpose of such inventory shall be to: make determinations as to whether and where an overpopulation exists and whether action should be taken to remove excess animals; determine appropriate management levels of wild free-roaming horses and burros on these areas of the public lands; and determine whether appropriate management levels should be achieved by the removal or destruction of excess animals, or other options (such as sterilization, or natural controls on population levels). In making such determinations the Secretary shall consult with the United States Fish and Wildlife Service, wildlife agencies of the State or States wherein wild free-roaming horses and burros are located, such individuals independent of Federal and State government as have been recommended by the National Academy of Sciences, and such other individuals whom he determines have scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management.

(2) Where the Secretary determines on the basis of (i) the current inventory of lands within his jurisdiction; (ii) information contained in any land use planning completed pursuant to section 1712 of title 43; (iii) information contained in court ordered environmental impact statements as defined in section 1902 of title 43; and (iv) such additional information as becomes available to him from time to time, including that information developed in the research study mandated by this section, or in the absence of the information contained in (i-iv) above on the basis of all information currently available to him, that an overpopulation exists on a given area of the public lands and that action is necessary to remove excess animals, he shall immediately remove excess animals from the range so as to achieve appropriate management levels. Such action shall be taken, in the following order and priority, until all excess animals have been removed so as to restore a thriving natural ecological balance to the range, and protect the range from the deterioration associated with overpopulation:

(A) The Secretary shall order old, sick, or lame animals to be destroyed in the most humane manner possible;

(B) The Secretary shall cause such number of additional excess wild free-roaming horses and burros to be humanely captured and removed for private maintenance and care for which he determines an adoption demand exists by qualified individuals, and for which he determines he can assure humane treatment and care (including proper transportation, feeding, and handling): *Provided*, That, not more than four animals may be adopted per year by any individual unless the Secretary determines in writing that such individual is capable of humanely caring for more than four animals, including the transportation of such animals by the adopting party; and

(C) The Secretary shall cause additional excess wild free-roaming horses and burros for which an adoption demand by qualified individuals does not exist to be destroyed in the most humane and cost efficient manner possible.

(3) For the purpose of furthering knowledge of wild horse and burro population dynamics and their interrelationship with wildlife, forage and water resources, and assisting him in making his determination as to what constitutes excess animals, the Secretary shall contract for a research study of such animals with such individuals independent of Federal and State government as may be recommended by the National Academy of Sciences for having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management. The terms and outline of such research study shall be determined by a research design panel to be appointed by the President of the National Academy of Sciences. Such study shall be completed and submitted by the Secretary to the Senate and House of Representatives on or before January 1, 1983.

(c) Title of transferee to limited number of excess animals adopted for requisite period

Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this chapter and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than four animals to the transferee at the end of the one-year period.

(d) Loss of status as wild free-roaming horses and burros; exclusion from coverage

Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this chapter—

(1) upon passage of title pursuant to subsection (c) of this section except for the limitation of subsection (c)(1) of this section; or

(2) if they have been transferred for private maintenance or adoption pursuant to this chapter and die of natural causes before passage of title; or

(3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or

(4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 1334 of this title and disposal is authorized by the Secretary or his designee; or

(5) upon destruction or death for purposes of or incident to the program authorized in this section; *Provided,* That no wild free-roaming horse or burro or its remains may be sold or transferred for consideration for processing into commercial products.

(As amended Pub. L. 95-514, § 14(a), Oct. 25, 1978, 92 Stat. 1808.)

REFERENCES IN TEXT

Section 1902 of title 43, referred to in subsec. (b)(2), in the original read "section 2 of the Public Range Lands Improvement Act of 1978" (classified to 43 U.S.C. 1901) and was changed to reflect the probable intent of Congress.

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-514 substituted provisions for: maintaining current inventory of wild free-roaming horses and burros; listing the purpose of the inventory and determinations to be made in consultation with persons of scientific expertise and special knowledge; immediate removal of excess animals from the range on the basis of information from various sources so as to achieve appropriate management levels; order and priority of removal; and research study to be reported to Congress for prior authorization of humane destruction of old, sick, or lame animals and capture and removal of additional excess animals for private maintenance under humane conditions and care, now incorporated in subsec. (b)(2)(A) and (B).

Subsec. (c). Pub. L. 95-514 substituted provision for grant of title to limited number of excess animals adopted for requisite period for prior authorization of humane destruction of wild free-roaming horses and burros as an act of mercy or to prevent overpopulation only when necessary to preserve and maintain the habitat in a suitable condition for continued use.

Subsec. (d). Pub. L. 95-514 substituted provisions relating to circumstances and conditions operating to take wild free-roaming horses and burros or their remains from the purview of this chapter for prior declaration that nothing in the chapter shall preclude the customary disposal of the remains of a deceased wild free-roaming horse or burro, including those in the authorized possession of private parties, and prohibition of sale for any consideration, directly or indirectly, of the remains, or any part thereof, now incorporated in cl. (5).

§ 1334. Private maintenance; numerical approximation; strays on private lands: removal; destruction by agents

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1333, 1338 of this title.

CHAPTER 31—MARINE MAMMAL PROTECTION

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1034, 1543, 2407, 2408 of this title.

SUBCHAPTER I—GENERALLY

§ 1361. Congressional findings and declaration of policy

INTERNATIONAL DISCUSSION TO ADVANCE UNDERSTANDING OF CETACEAN LIFE

Pub. L. 95-426, title VI, § 602, Oct. 7, 1978, 92 Stat. 985, provided that: "It is the sense of the Congress that the President should convey to all countries having an interest in cetacean sea life the serious concern of the Congress regarding the continuing destruction of these marine mammals (highlighted by the recent slaughter of dolphins in the Sea of Japan by Japanese fishermen) and should encourage such countries—

"(1) to join in international discussions with other such countries in order to advance general understanding of cetacean life and thereby facilitate an effective use of the living marine resources of the world which does not jeopardize the natural balance of the aquatic environment;

"(2) to participate in an exchange of information with the National Marine Fisheries Service of the United States Department of Commerce, including cooperation in studies of—

"(A) the impact of cetaceans on ecologically related human foodstuffs, and

"(B) alternative methods of dealing with cetacean problems as they occur;

"(3) to cooperate in establishing an international cetacean commission to advance understanding of cetacean life and to insure the effective conservation and protection of cetaceans on a global scale; and

"(4) to adopt comprehensive marine mammal protection legislation."

§ 1362. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2404 of this title.

SUBCHAPTER II—CONSERVATION AND PROTECTION OF MARINE MAMMALS

§ 1372. Prohibitions

[*See main edition for text of* (a) *to* (e)]

(f) Commercial taking of whales

It is unlawful for any person or vessel or other conveyance to take any species of whale

incident to commercial whaling in waters subject to the jurisdiction of the United States.

(As amended Pub. L. 95-136, § 4, Oct. 18, 1977, 91 Stat. 1167.)

AMENDMENTS

1977—Subsec. (f). Pub. L. 95-136 added subsec. (f).

§ 1377. Enforcement

TRANSFER OF FUNCTIONS

All functions vested by statute in the United States Civil Service Commission were transferred to the Director of the Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

§ 1379. Federal cooperation with States

[*See main edition for text of* (a) *to* (c)]

(d) Authorization of appropriations

(1) There are authorized to be appropriated to the Department of the Interior, for the purposes of carrying out this section, not to exceed $400,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(2) There are authorized to be appropriated to the Department of Commerce, for the purposes of carrying out this section, not to exceed $225,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, and September 30, 1981.

(As amended Pub. L. 95-316, § 1, July 10, 1978, 92 Stat. 380.)

AMENDMENTS

1978—Subsec. (d). Pub. L. 95-316 added subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1384 of this title.

§ 1380. Marine mammal research grants

[*See main edition for text of* (a) *and* (b)]

(c) There are authorized to be appropriated, for the purposes of carrying out this section, not to exceed the following sums for the following fiscal years:

(1) $2,500,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, June 30, 1975, September 30, 1976, and September 30, 1977, of which one-third of the sum appropriated for any such fiscal year shall be available to the Secretary of the Interior and two-thirds of any such sum shall be available to the Secretary of Commerce.

(2) $1,200,000, all of which shall be available to the Secretary of the Interior, for the fiscal year ending September 30, 1978.

(3) $200,000, all of which shall be available to the Secretary of Commerce, for the fiscal year ending September 30, 1978.

(4)(A) $1,300,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1979.

(B) $2,700,000 which shall be available to the Secretary of Commerce for the fiscal year ending September 30, 1979.

(5)(A) $1,500,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1980.

(B) $2,700,000 which shall be available to the Secretary of Commerce for the fiscal year ending September 30, 1980.

(6)(A) $2,100,000 which shall be available to the Secretary of the Interior for the fiscal year ending September 30, 1981.

(B) $2,700,000 which shall be available to the Secretary of Commerce for the fiscal year ending September 30, 1981.

(As amended Pub. L. 95-136, § 1, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95-316, § 2, July 10, 1978, 92 Stat. 380.)

AMENDMENTS

1978—Subsec. (c)(4) to (6) Pub. L. 95-316 added subsec. (c)(4) to (6).

1977—Subsec. (c). Pub. L. 95-136 incorporated existing provisions into material preceding par. (1) and, as so incorporated, struck out provisions authorizing to be appropriated such sums as may be necessary to carry out this section for the fiscal year in which this section takes effect and the next four years thereafter, limiting appropriations for any one year to $2,500,000, and requiring that one-third of such sums be made available to the Secretary of the Interior and two-thirds of such sums be made available to the Secretary of the department in which the National Oceanic and Atmospheric Administration is operating, and added pars. (1) to (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1379, 1384 of this title.

§ 1384. Authorization of appropriations

(a) There are authorized to be appropriated not to exceed $2,000,000 for the fiscal year ending June 30, 1973, and the four next following fiscal years, not to exceed $11,500,000 for the fiscal year ending September 30, 1978, not to exceed $8,500,000 for the fiscal year ending September 30, 1979, not to exceed $9,000,000 for the fiscal year ending September 30, 1980, and not to exceed $9,500,000 for the fiscal year ending September 30, 1981, to enable the department in which the National Oceanic and Atmospheric Administration is operating to carry out such functions and responsibilities as it may have been given under this subchapter (other than sections 1379 and 1380 of this title).

(b) There are authorized to be appropriated not to exceed $700,000 for the fiscal year ending June 30, 1973, not to exceed $525,000 for each of the next four fiscal years thereafter, not to exceed $850,000 for the fiscal year ending September 30, 1978, not to exceed $650,000 for the fiscal year ending September 30, 1979, not to exceed $760,000 for the fiscal year ending September 30, 1980, and not to exceed $876,000 for the fiscal year ending September 30, 1981 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this subchapter (other than sections 1379 and 1380 of this title).

(As amended Pub. L. 95-136, § 2, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95-316, § 3, July 10, 1978, 92 Stat. 380.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-316, § 3(1), added reference to sections 1379 and 1380 of this title, and provisions authorizing appropriations for the fiscal years ending Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

Subsec. (b). Pub. L. 95-316, § 3(2), added reference to sections 1379 and 1380 of this title, and provisions authorizing appropriations for the fiscal years Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

1977—Subsec. (a). Pub. L. 95-136, § 2(1), inserted ", and not to exceed $11,500,000 for the fiscal year ending September 30, 1978," following "fiscal years".

Subsec. (b). Pub. L. 95-136, § 2(2), inserted ", and not to exceed $850,000 for the fiscal year ending September 30, 1978" following "thereafter".

SUBCHAPTER III—MARINE MAMMAL COMMISSION

§ 1402. Duties of Commission

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1404 of this title.

§ 1407. Authorization of appropriations

There are authorized to be appropriated for the fiscal year in which this subchapter is enacted and for the next five fiscal years thereafter such sums as may be necessary to carry out this subchapter, but the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed $1,000,000, the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed $2,000,000, the sum appropriated for the fiscal year ending September 30, 1979, shall not exceed $1,000,000, the sum appropriated for the fiscal year ending September 30, 1980, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1981, shall not exceed $1,000,000.

(As amended Pub. L. 95-136, § 3, Oct. 18, 1977, 91 Stat. 1167; Pub. L. 95-316, § 4, July 10, 1978, 92 Stat. 381.)

AMENDMENTS

1978—Pub. L. 95-316 added provisions authorizing appropriations for the fiscal years ending Sept. 30, 1979, Sept. 30, 1980, and Sept. 30, 1981.

1977—Pub. L. 95-136 substituted "five fiscal years" for "four fiscal years" and "the sums appropriated for any fiscal year other than the fiscal year ending September 30, 1978, shall not exceed $1,000,000, and the sum appropriated for the fiscal year ending September 30, 1978, shall not exceed $2,000,000" for "the sums appropriated for any such year shall not exceed $1,000,000" and struck out requirement that not less than two-thirds of the sums appropriated pursuant to this section for any such year be expended on research and studies under authority of section 1402(a)(2) and (3) of this title.

CHAPTER 32—MARINE SANCTUARIES

§ 1431. Definition

FEDERAL COMPLIANCE WITH POLLUTION CONTROL STANDARDS

For provisions relating to the responsibility of the head of each Executive agency for compliance with applicable pollution control standards, see Ex. Ord. No. 12088, Oct. 13, 1978, 43 F.R. 47707, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

ENVIRONMENTAL EFFECTS ABROAD OF MAJOR FEDERAL ACTIONS

For provisions relating to environmental effects abroad of major federal actions, see Ex. Ord. No. 12114, Jan. 4, 1979, 44 F.R. 1957, set out as a note under section 4321 of Title 42, The Public Health and Welfare.

§ 1434. Authorization of appropriations

There are authorized to be appropriated not to exceed $10,000,000 for each of the fiscal years 1973, 1974, and 1975, not to exceed $6,200,000 for fiscal year 1976, not to exceed $1,550,000 for the transition period (July 1 through September 30, 1976), not to exceed $500,000 for fiscal year 1977, and not to exceed $500,000 for fiscal year 1978 to carry out the provisions of this chapter, including the acquisition, development, and operation of marine sanctuaries designated under this chapter.

(As amended Pub. L. 95-153, § 3, Nov. 4, 1977, 91 Stat. 1255.)

AMENDMENTS

1977—Pub. L. 95-153 added provision authorizing appropriations not to exceed $500,000 for fiscal year 1978.

CHAPTER 33—COASTAL ZONE MANAGEMENT

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 33 sections 1503, 1508; title 43 sections 1351, 1866.

§ 1453. Definitions

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 1702; title 33 section 1122.

§ 1454. Management program development grants

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1455, 1456a, 1456b, 1464 of this title; title 43 sections 1331, 1344.

§ 1455. Administrative grants

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1454, 1456, 1456a, 1456b, 1458, 1464 of this title; title 43 sections 1340, 1344, 1351.

§ 1456. Coordination and cooperation

[*See main edition for text of (a) and (b)*]

(c) Consistency of Federal activities with state management programs; certification

[*See main edition for text of (1) to (3)(A)*]

(B) After the management program of any coastal state has been approved by the Secretary under section 1455 of this title, any person who submits to the Secretary of the Interior any plan for the exploration or development of, or production from, any area which has been leased under the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) and regula-

tions under such Act shall, with respect to any exploration, development, or production described in such plan and affecting any land use or water use in the coastal zone of such state, attach to such plan a certification that each activity which is described in detail in such plan complies with such state's approved management program and will be carried out in a manner consistent with such program. No Federal official or agency shall grant such person any license or permit for any activity described in detail in such plan until such state or its designated agency receives a copy of such certification and plan, together with any other necessary data and information, and until—

[*See main edition for text of* (i)]

(ii) concurrence by such state with such certification is conclusively presumed as provided for in subparagraph (A), except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed; or

[*See main edition for text of* (iii) *and closing paragraph;* (d), (e)]

(f) Construction with existing requirements of water and air pollution programs

Notwithstanding any other provision of this chapter, nothing in this chapter shall in any way affect any requirement (1) established by the Federal Water Pollution Control Act, as amended [33 U.S.C. 1251 et seq.], or the Clean Air Act, as amended [42 U.S.C. 7401 et seq.], or (2) established by the Federal Government or by any state or local government pursuant to such Acts. Such requirements shall be incorporated in any program developed pursuant to this chapter and shall be the water pollution control and air pollution control requirements applicable to such program.

[*See main edition for text of* (g), (h)]

(As amended Pub. L. 95-372, title V, § 504, Sept. 18, 1978, 92 Stat. 693.)

REFERENCES IN TEXT

The Clean Air Act, referred to in subsec. (f), is act July 14, 1955, ch. 360, as amended generally by Pub. L. 88-206, Dec. 17, 1963, 77 Stat. 392, and later by Pub. L. 95-95, Aug. 7, 1977, 91 Stat. 685. The Clean Air Act was originally classified to chapter 15B (§ 1857 et seq.) of Title 42, The Public Health and Welfare. On enactment of Pub. L. 95-95, the Act was reclassified to chapter 85 (§ 7401 et seq.) of Title 42. For complete classification of this Act to the Code, see short Title note set out under section 7401 of Title 42 and Tables.

CODIFICATION

Subsec. (f) is set out in this supplement to reflect the current citation for the Clean Air Act, which was reclassified to chapter 85 (§ 7401 et seq.) of Title 42, The Public Health and Welfare, on enactment of Pub. L. 95-95.

AMENDMENTS

1978—Subsec. (c)(3)(B)(ii). Pub. L. 95-372 added ", except if such state fails to concur with or object to such certification within three months after receipt of its copy of such certification and supporting information, such state shall provide the Secretary, the appropriate federal agency, and such person with a written statement describing the status of review and the basis for further delay in issuing a final decision, and if such statement is not so provided, concurrence by such state with such certification shall be conclusively presumed" following "as provided for in subparagraph (A)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1453, 1454, 1462 of this title; title 43 sections 1340, 1351.

§ 1456a. Coastal energy impact program

(a) Administration and coordination by Secretary; financial assistance; audit; rules and regulations

(1) The Secretary shall administer and coordinate, as part of the coastal zone management activities of the Federal Government provided for under this chapter, a coastal energy impact program. Such program shall consist of the provision of financial assistance to meet the needs of coastal states and local governments in such states resulting from specified activities involving energy development. Such assistance, which includes—

(A) grants, under subsection (b) of this section, to coastal states for the purposes set forth in subsection (b)(5) of this section with respect to consequences resulting from the energy activities specified therein;

(B) grants, under subsection (c)(1) of this section, to coastal states for study of, and planning for, consequences relating to new or expanded energy facilities in, or which significantly affect, the coastal zone;

(C) grants, under subsection (c)(2) of this section, to coastal states to carry out their responsibilities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.].

(D) loans, under subsection (d)(1) of this section, to coastal states and units of general purpose local government to assist such states and units to provide new or improved public facilities or public services which are required as a result of coastal energy activity;

(E) guarantees, under subsection (d)(2) of this section and subject to the provisions of subsection (f) of this section, of bonds or other evidences of indebtedness issued by coastal states and units of general purpose local government for the purpose of providing new or improved public facilities or public services which are required as a result of coastal energy activity;

(F) grants or other assistance, under subsection (d)(3) of this section, to coastal states and units of general purpose local government to enable such states and units to meet obligations under loans or guarantees under subsection (d)(1) or (2) of this section which they are unable to meet as they mature, for reasons specified in subsection (d)(3) of this section; and

(G) grants, under subsection (d)(4) of this section, to coastal states which have suffered, are suffering, or will suffer any unavoidable

loss of a valuable environmental or recreational resource;

shall be provided, administered, and coordinated by the Secretary in accordance with the provisions of this section and under the rules and regulations required to be promulgated pursuant to paragraph (2). Any such financial assistance shall be subject to audit under section 1459 of this title.

(2) The Secretary shall promulgate, in accordance with section 1463 of this title, such rules and regulations (including, but not limited to, those required under subsection (e) of this section) as may be necessary and appropriate to carry out the provisions of this section.

(b) Grants; calculations; purposes and priority of proceeds; supervision by Secretary

[*See main edition for text of (1)*]

(2) Subject to paragraph (3), the amounts payable to coastal states under this subsection shall be, with respect to any such state for any fiscal year, the sum of the amounts calculated, with respect to such state, pursuant to subparagraphs (A), (B), and (C):

(A) An amount which bears, to one-half of the amount appropriated for the purpose of funding grants under this subsection for such fiscal year, the same ratio that the amount of outer Continental Shelf acreage which is adjacent to such state and which is newly leased by the Federal Government in the immediately preceding fiscal year bears to the total amount of outer Continental Shelf acreage which is newly leased by the Federal Government in such preceding year.

(B) An amount which bears, to one-quarter of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced in the immediately preceding fiscal year from the outer Continental Shelf acreage which is adjacent to such state and which is leased by the Federal Government bears to the total volume of oil and natural gas produced in such year from all of the outer Continental Shelf acreage which is leased by the Federal Government.

(C) An amount which bears, to one-quarter of the amount appropriated for such purpose for such fiscal year, the same ratio that the volume of oil and natural gas produced from outer Continental Shelf acreage leased by the Federal Government which is first landed in such state in the immediately preceding fiscal year bears to the total volume of oil and natural gas produced from all outer Continental Shelf acreage leased by the Federal Government which is first landed in all of the coastal states in such year.

(3)(A)(i) After making the calculations required under paragraph (2) for any fiscal year, the Secretary shall—

(I) with respect to any coastal state which, based on such calculations, would receive an amount which is less than 2 per centum of the amount appropriated for such fiscal year, increase the amount appropriated for such fiscal year, increase the amount payable to such coastal state to 2 per centum of such appropriated amount; and

(II) with respect to any coastal state which, in such fiscal year, would not receive a grant under paragraph (2), make a grant to such coastal state in an amount equal to 2 per centum of the total amount appropriated for making grants to all states under paragraph (2) in such fiscal year if any other coastal state in the same region will receive a grant under such paragraph in such fiscal year, except that a coastal state shall not receive a grant under this subclause unless the Secretary determines that it is being or will be impacted by outer Continental Shelf energy activity and that it will be able to expend or commit the proceeds of such grant in accordance with the purposes set forth in paragraph (5).

(ii) For purposes of this subparagraph—

(I) the states of Connecticut, Delaware, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, and Virginia, the Commonwealth of Puerto Rico, and the Virgin Islands (the Atlantic coastal states) shall constitute one "region";

(II) the states of Alabama, Florida, Louisiana, Mississippi, and Texas (the Gulf coastal states) shall constitute one "region";

(III) the states of California, Hawaii, Oregon, and Washington (the Pacific coastal states) shall constitute one "region"; and

(IV) the state of Alaska shall constitute one "region."

(B) If, after the calculations required under subparagraph (A), the total amount of funds appropriated for making grants to coastal states in any fiscal year pursuant to this subsection is less than the total amount of grants payable to all coastal states in such fiscal year, there shall be deducted from the amount payable to each coastal state which will receive more than 2 per centum of the amount of funds so appropriated an amount equal to the product of—

(i) the amount by which the total amount of grants payable to all coastal states in such fiscal year exceeds the total amount of funds appropriated for making such grants; multiplied by

(ii) a fraction, the numerator of which is the amount of grants payable to such coastal state in such fiscal year reduced by an amount equal to 2 per centum of the total amount appropriated for such fiscal year and the denominator of which is the total amount of grants payable to coastal states which, in such fiscal year, will receive more than 2 per centum of the amount of funds so appropriated, reduced by an amount equal to the product of 2 per centum of the total amount appropriated for such fiscal year multiplied by the number of such coastal states.

(C)(i) If, after the calculations required under subparagraph (B) for any fiscal year, any coastal state would receive an amount which is greater than 37½ per centum of the amount appropriated for such fiscal year, the Secretary

shall reduce the amount payable to such coastal state to 37½ per centum of such appropriated amount.

(ii) Any amount not payable to a coastal state in a fiscal year due to a reduction under clause (i) shall be payable proportionately to all coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year, except that in no event shall any coastal state receive more than 37½ per centum of such appropriated amount.

(iii) For purposes of this subparagraph, the term 'payable proportionately' means payment in any fiscal year in accordance with the provisions of paragraph (2), except that in making calculations under such paragraph the Secretary shall only include those coastal states which are to receive more than 2 per centum and less than 37½ per centum of the amount appropriated for such fiscal year.

(4)(A) The Secretary shall determine annually the amounts of the grants to be provided under this subsection and shall collect and evaluate such information as may be necessary to make such determinations. Each Federal department, agency, and instrumentality shall provide to the Secretary such assistance in collecting and evaluating relevant information as the Secretary may request. The Secretary shall request the assistance of any appropriate state agency in collecting and evaluating such information.

(B) For purposes of making calculations under paragraph (2), outer Continental Shelf acreage is adjacent to a particular coastal state if such acreage lies on that state's side of the extended lateral seaward boundaries of such state. The extended lateral seaward boundaries of a coastal state shall be determined as follows:

(i) If lateral seaward boundaries have been clearly defined or fixed by an interstate compact, agreement, or judicial decision (if entered into, agreed to, or issued before July 26, 1976), such boundaries shall be extended on the basis of the principles of delimitation used to so define or fix them in such compact, agreement, or decision.

(ii) If no lateral seaward boundaries, or any portion thereof, have been clearly defined or fixed by an interstate compact, agreement, or judicial decision, lateral seaward boundaries shall be determined according to the applicable principles of law, including the principles of the Convention on the Territorial Sea and the Contiguous Zone, and extended on the basis of such principles.

(iii) If, after July 26, 1976, two or more coastal states enter into or amend an interstate compact or agreement in order to clearly define or fix lateral seaward boundaries, such boundaries shall thereafter be extended on the basis of the principles of delimitation used to so define or fix them in such compact or agreement.

(C) For purposes of making calculations under this subsection, the transitional quarter beginning July 1, 1976, and ending September 30, 1976, shall be included within the fiscal year ending June 30, 1976.

(5) Each coastal state shall use the proceeds of grants received by it under this subsection for the following purposes (except that priority shall be given to the use of such proceeds for the purpose set forth in subparagraph (A)):

(A) The retirement of state and local bonds, if any, which are guaranteed under subsection (d)(2) of this section; except that, if the amount of such grants is insufficient to retire both state and local bonds, priority shall be given to retiring local bonds.

(B) The study of, planning for, development of, and the carrying out of projects and programs in such state which are—

(i) necessary to provide new or improved public facilities and public services which are required as a result of outer Continental Shelf energy activity;

(ii) of a type approved by the Secretary as eligible for grants under this paragraph, except that the Secretary may not disapprove any project or program for highways and secondary roads, docks, navigation aids, fire and police protection, water supply, waste collection and treatment (including drainage), schools and education, and hospitals and health care.

The Secretary may, pursuant to criteria promulgated by rule, describe geographic areas in which public facilities and public services referred to in clause (i) shall be presumed to be required as a result of outer Continental Shelf energy activity for purposes of disbursing the proceeds of grants under this subsection.

(C) The prevention, reduction, or amelioration of any unavoidable loss in such state's coastal zone of any valuable environmental or recreational resource if such loss results from coastal energy activity.

(6) The Secretary, in a timely manner, shall determine that each coastal state has expended or committed, and may determine that such state will expend or commit, grants which such state has received under this subsection in accordance with the purposes set forth in paragraph (5). The United States shall be entitled to recover from any coastal state an amount equal to any portion of any such grant received by such state under this subsection which—

(A) is not expended or committed by such state before the close of the fiscal year immediately following the fiscal year in which the grant was disbursed, or

(B) is expended or committed by such state for any purpose other than a purpose set forth in paragraph (5).

Before disbursing the proceeds of any grant under this subsection to any coastal state, the Secretary shall require such state to provide adequate assurances of being able to return to the United States any amounts to which the preceding sentence may apply.

(c) Grants; study and planning; consequences affecting coastal zone relating to new or expanded energy facilities; limits on grants

(1) The Secretary shall make grants to any coastal state if the Secretary finds that the coastal zone of such state is being, or is likely to

be, significantly affected by the siting, construction, expansion, or operation of new or expanded energy facilities. Such grants shall be used for the study of, and planning for (including, but not limited to, the application of the planning process included in a management program pursuant to section 1454(b)(8) of this title) any economic, social, or environmental consequence which has occurred, is occurring, or is likely to occur in such state's coastal zone as a result of the siting, construction, expansion, or operation of such new or expanded energy facilities. The amount of any such grant shall not exceed 80 per centum of the cost of such study and planning.

(2) The Secretary shall make grants under this paragraph to any coastal state which the Secretary finds is likely to be affected by outer Continental Shelf energy activities. Such grants shall be used by such state to carry and its responsibilities under the Outer Continental Shelf Lands Act [43 U.S.C. 1331 et seq.]. The amount of any such grant shall not exceed 80 per centum of the cost of carrying out such responsibilities.

[See main edition for text of (d) to (g)]

(h) Coastal Energy Impact Fund; establishment

There is established in the Treasury of the United States the Coastal Energy Impact Fund. The Fund shall be available to the Secretary without fiscal year limitation as a revolving fund for the purposes of carrying out subsections (c)(1) and (d) of this section. The Fund shall consist of—

[See main edition for text of (1) to (4)]

All payments made by the Secretary to carry out the provisions of subsections (c)(1), (d), and (f) of this section (including reimbursements to other Government accounts) shall be paid from the Fund, only to the extent provided for in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of subsections (c)(1), (d) and (f) of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

[See main edition for text of (i) and (j)]

(k) Basis of Secretary's administration of financial assistance

To the extent that Federal funds are available under, or pursuant to, any other law with respect to—

(1) study and planning for which financial assistance may be provided under subsection (b)(5)(B) and (c)(1) of this section, or

(2) public facilities and public services for which financial assistance may be provided under subsection (b)(5)(B) and (d) of this section,

the Secretary shall, to the extent practicable, administer such subsections—

(A) on the basis that the financial assistance shall be in addition to, and not in lieu of, any Federal funds which any coastal state or unit of general purpose local government may obtain under any other law; and

(B) to avoid duplication.

[See main edition for text of (l)]

(As amended Pub. L. 95-372, title V, §§ 501, 503(a)-(d), Sept. 18, 1978, 92 Stat. 690, 692, 693.)

REFERENCES IN TEXT

The Outer Continental Shelf Lands Act, referred to in subsecs. (a)(1)(C) and (c)(2), is act Aug. 7, 1953, ch. 345, 67 Stat. 462, as amended, which is classified generally to subchapter III (§ 1331 et seq.) of chapter 29 of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1331 of Title 43 and Tables.

AMENDMENTS

1978—Subsec. (a)(1)(A). Pub. L. 95-372, § 501(b)(1), substituted "subsection (b)(5) of this section" for "subsection (b)(4) of this section".

Subsec. (a)(1)(B). Pub. L. 95-372, § 503(b)(1), substituted "subsection (c)(1) of this section" for "subsection (c) of this section".

Subsec. (a)(1)(C). Pub. L. 95-372, § 503(b)(2), added subsec. (a)(1)(C). Former subsec. (a)(1)(C) redesignated (a)(1)(D).

Subsec. (a)(1)(D) to (G). Pub. L. 95-372, § 503(b)(2), redesignated former subsec. (a)(1)(C) to (F) as (a)(1)(D) to (G).

Subsec. (b)(2). Pub. L. 95-372, § 501(a), substituted in provisions preceding subpar. (A) "Subject to paragraph (3), the amounts payable" for "The amounts granted" and "subparagraphs (A), (B), and (C)" for "subparagraphs (A), (B), (C), and (D)", in subpar. (A) "one-half" for "one-third", and in subpars. (B) and (C) "one-quarter" for "one-sixth" and struck out subpar. (D), which related to a ratio involving the number of individuals who obtain new employment as a result of new or expanded outer Continental Shelf energy activities.

Subsec. (b)(3). Pub. L. 95-372, § 501(b)(2), added subsec. (b)(3). Former subsec. (b)(3) redesignated (b)(4).

Subsec. (b)(4). Pub. L. 95-372, § 501(b)(1), redesignated former subsec. (b)(3) as (b)(4). Former subsec. (b)(4) redesignated (b)(5).

Subsec. (b)(5). Pub. L. 95-372, § 501(b)(1), (c), redesignated former subsec. (b)(4) as (b)(5) and, in subsec. (b)(5) as so redesignated, struck out in subpar. (B)(i) provisions relating to the unavailability of adequate financing under any other subsection and added provisions following subpar. (B)(ii) authorizing the Secretary to describe the geographic areas in which the public facilities and public services referred to in subpar. (B)(i) shall be presumed to be required as a result of outer Continental Shelf energy activities for purposes of disbursing the proceeds of grants under this subsection. Former subsec. (b)(5) redesignated (b)(6).

Subsec. (b)(6). Pub. L. 95-372, § 501(b)(1), redesignated former subsec. (b)(5) as (b)(6) and, in subsec. (b)(6) as so redesignated, in provisions preceding subpar. (A) and in subpar. (B) substituted "paragraph (5)" for "paragraph (4)".

Subsec. (c). Pub. L. 95-372, § 503(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 95-372, § 503(c), substituted "subsections (c)(1)" for "subsections (c)" wherever appearing.

Subsec. (k). Pub. L. 95-372, §§ 501(b)(1), 503(d), substituted in par. (1) "subsection (b)(5)(B) and (c)(1)" for "subsection (b)(4)(B) and (c)" and in par. (2) "subsection (b)(5)(B)" for "(b)(4)(B)".

§ 1456b. Interstate grants

TRANSFER OF FUNCTIONS

The Federal Energy Administration was terminated and functions vested by law in the Administrator thereof were transferred to the Secretary of Energy (unless otherwise specifically provided) by sections

7151(a) and 7293 of Title 42, The Public Health and Welfare.

§ 1464. Authorization of appropriations; limitations

(a) There are authorized to be appropriated to the Secretary—

[*See main edition for text of (1) and (2)*]

(3) such sums, not to exceed $50,000,000 for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed $130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on October 1, 1978, and ending September 30, 1988, as may be necessary for grants under section 1456a(b) of this title;

(4) such sums, not to exceed $5,000,000 for each of the fiscal years ending September 30, 1979, September 30, 1980, September 30, 1981, September 30, 1982, and September 30, 1983, as may be necessary for grants under section 1456a(c)(2) of this title, to remain available until expended;

(5) such sums, not to exceed $5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30 1980, respectively, as may be necessary for grants under section 1456b of this title, to remain available until expended;

(6) such sums, not to exceed $10,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for financial assistance under section 1456c of this title, of which 50 per centum shall be for financial assistance under section 1456c(a) of this title and 50 per centum shall be for financial assistance under section 1456c(b) of this title, to remain available until expended;

(7) such sums, not to exceed $6,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 1461(1) of this title, to remain available until expended;

(8) such sums, not to exceed $25,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for grants under section 1461(2) of this title, to remain available until expended; and

(9) such sums, not to exceed $5,000,000 for each of the fiscal years ending September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980, respectively, as may be necessary for administrative expenses incident to the administration of this chapter.

(b) There are authorized to be appropriated until October 1, 1986, to the Fund, such sums, not to exceed $800,000,000, for the purposes of carrying out the provisions of section 1456a of this title, other than subsections (b) and (c)(2), of which not to exceed $50,000,000 shall be for purposes of subsections (c)(1) and (d)(4) of such section.

(c) Federal funds received from other sources shall not be used to pay a coastal state's share of costs under section 1454, 1455, 1456b, or 1456c of this title.

(As amended Pub. L. 95-372, title V, §§ 502, 503(e), (f), Sept. 18, 1978, 92 Stat. 692, 693.)

AMENDMENTS

1978—Subsec. (a)(3). Pub. L. 95-372, § 502, substituted "for each of the fiscal years ending September 30, 1977, and September 30, 1978, and not to exceed $130,000,000 per fiscal year for each of the fiscal years occurring during the period beginning on October 1, 1978, and ending September 30, 1988," for "for each of the 8 fiscal years occurring during the period beginning October 1, 1976, and ending September 30, 1984,".

Subsec. (a)(4). Pub. L. 95-372, § 503(e)(2), added subsec. (a)(4). Former subsec. (a)(4) redesignated (a)(5).

Subsec. (a)(5) to (9). Pub. L. 95-372, § 503(e)(1), redesignated former subsec. (a)(4) to (8) as (a)(5) to (9).

Subsec. (b). Pub. L. 95-372, § 503(f), substituted "subsections (b) and (c)(2)" for "subsection (b)" and "subsections (c)(1)" for "subsections (c)".

CHAPTER 34—RURAL ENVIRONMENTAL CONSERVATION PROGRAM

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 2103 of this title.

§ 1501. Establishment and purpose of programs; contracting and purchasing authority of Secretary; maintenance of continuing and stable supply of agricultural commodities and forest products

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1502, 1507, 1508, 2103 of this title.

§ 1502. Plan of farming operations or land use; necessity for contract applicants to furnish Secretary; contents of plan

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1508, 2103 of this title.

§ 1503. Contracts

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1508, 2103 of this title.

§ 1504. Authority of Secretary to furnish eligible owners and operators conservation materials, etc.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1508, 2103 of this title.

§ 1505. Multiyear set-aside contracts; contracting authority of Secretary; duration of contracts; eligibility of producers; duties of producers under contracts; cost-sharing incentives for farm operators

(a) Notwithstanding the provisions of any other title, the Secretary may establish multiyear set-aside contracts for a period not to extend beyond the 1981 crop. Such contracts may be entered into only as a part of the programs in effect for wheat, feed grains, and cotton for the years 1974 through 1982, and only producers participating in one or more of such programs shall be eligible to contract with

the Secretary under this section. Producers agreeing to a multiyear set-aside agreement shall be required to devote this acreage to vegetative cover capable of maintaining itself throughout such period to provide soil protection, water quality enhancement, wildlife production, and natural beauty. Grazing of livestock under this section shall be prohibited, except in areas of a major disaster as determined by the President if the Secretary finds there is a need therefor, as a result of such disaster. Producers entering into agreements under this section shall also agree to comply with all applicable State and local law and regulation governing noxious weed control.

[See main edition for text of (b)]

(As amended Pub. L. 95-113, title XV, § 1509, Sept. 29, 1977, 91 Stat. 1022.)

AMENDMENTS

1977—Subsec. (a). Pub. L. 95-113 substituted "1981" for "1977" as the year beyond which a multiyear set-aside contract may not extend, substituted "1982" for "1978" as the final crop year for programs which the contracts entered into may involve, and added an exception to the prohibition on the grazing of livestock to apply in areas of a major disaster as determined by the President if the Secretary finds that there is a need therefor, as a result of the disaster.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-113 effective Oct. 1, 1977, see section 1901 of Pub. L. 95-113, set out as an Effective Date of 1977 Amendment note under section 1307 of Title 7, Agriculture.

§ 1508. Coordination with and utilization by Secretary of Federal, State, and local services and facilities to carry out programs and plans

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2103 of this title.

§ 1509. Repealed. Pub. L. 95-313, § 13(a)(7), July 1, 1978, 92 Stat. 374

Section, Pub. L. 91-524, title X, § 1009, as added Pub. L. 93-86, § 1(28), Aug. 10, 1973, 87 Stat. 245, set forth provisions relating to establishment, funding requirements, etc., for the forestry incentives program.

EFFECTIVE DATE OF REPEAL

Section repealed effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

§ 1510. Authorization of appropriations; construction and continuation of programs, contracts, and authorities

There are hereby authorized to be appropriated annually such sums as may be necessary to carry out the provisions of this chapter. The programs, contracts, and authority authorized under this chapter shall be in addition to, and not in substitution for, other programs in such areas authorized by this chapter or any other title or Act, and shall not expire with the termination of any other title or Act.

(As amended Pub. L. 95-313, § 13(a)(7), July 1, 1978, 92 Stat. 374.)

AMENDMENTS

1978—Pub. L. 95-313 struck out proviso relating to limitation on authorization of appropriations for forestry incentives program.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-313 effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2111 of this title.

CHAPTER 35—ENDANGERED SPECIES

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1362, 1371, 1372, 2404, 2407, 2408, 2705 of this title; title 7 section 136.

§ 1531. Congressional findings and declaration of purposes and policy

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95-632, § 1, Nov. 10, 1978, 92 Stat. 3751, provided: "That this Act [amending sections 1532 to 1536, 1538 to 1540, and 1542 of this title] may be cited as the 'Endangered Species Act Amendments of 1978'."

§ 1532. Definitions

For the purpose of this chapter—

(1) The term "alternative courses of action" means all alternatives and thus is not limited to original project objectives and agency jurisdiction.

(2) The term "commercial activity" means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: *Provided, however,* That it does not include exhibition of commodities by museums or similar cultural or historical organizations.

(3) The terms "conserve", "conserving", and "conservation" mean to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this chapter are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(4) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

(5)(A) The term "critical habitat" for a threatened or endangered species means—

(i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 1533 of this title, on which are found those physical or biological features

(I) essential to the conservation of the species and (II) which may require special management considerations or protection; and

(ii) specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 1533 of this title, upon a determination by the Secretary that such areas are essential for the conservation of the species.

(B) Critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraph (A) of this paragraph.

(C) Except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied by the threatened or endangered species.

(6) The term "endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the Class Insecta determined by the Secretary to constitute a pest whose protection under the provisions of this chapter would present an overwhelming and overriding risk to man.

(7) The term "Federal agency" means any department, agency, or instrumentality of the United States.

(8) The term "fish or wildlife" means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory, or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

(9) The term "foreign commerce" includes, among other things, any transaction—

(A) between persons within one foreign country;

(B) between persons in two or more foreign countries;

(C) between a person within the United States and a person in a foreign country; or

(D) between persons within the United States, where the fish and wildlife in question are moving in any country or countries outside the United States.

(10) The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

(11) The term "irresolvable conflict" means, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which, after consultation as required in section 1536(a) of this title, completion of such action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the adverse modification or destruction of a critical habitat.

(12) The term "permit or license applicant" means, when used with respect to an action of a Federal agency for which exemption is sought under section 1536 of this title, any person whose application to such agency for a permit or license has been denied primarily because of the application of section 1536(a) of this title to such agency action.

(13) The term "person" means an individual, corporation, partnership, trust, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

(14) The term "plant" means any member of the plant kingdom, including seeds, roots and other parts thereof.

(15) The term "Secretary" means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970; except that with respect to the enforcement of the provisions of this chapter and the Convention which pertain to the importation or exportation of terrestrial plants, the term means the Secretary of Agriculture.

(16) The term "species" includes any subspecies of fish or wildlife or plants, and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature.

(17) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

(18) the term "State agency" means any State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of fish, plant, or wildlife resources within a State.

(19) The term "take" means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.

(20) The term "threatened species" means any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

(21) The term "United States", when used in a geographical context, includes all States.

(As amended Pub. L. 95-632, § 2, Nov. 10, 1978, 92 Stat. 3751.)

AMENDMENTS

1978—Par. (1). Pub. L. 95-632, § 2(1), (7), added par. (1). Former par. (1) redesignated (2).

Pars. (2) to (4). Pub. L. 95-632, § 2(7), redesignated former pars. (1) to (3) as (2) to (4), respectively. Former par. (4) redesignated (6).

Par. (5). Pub. L. 95-632, § 2(2), (7), added par. (5). Former par. (5) redesignated (8).

Par. (6). Pub. L. 95-632, § 2(7), redesignated former par. (4) as (6). Former par. (6) redesignated (9).

Par. (7). Pub. L. 95-632, § 2(3), (7), added par. (7). Former par. (7) redesignated (10).

Pars. (8) to (10). Pub. L. 95-632, § 2(7), redesignated former pars. (5) to (7) as (8) to (10), respectively.

Former pars. (8) to (10) redesignated (13) to (15), respectively.

Pars. (11), (12). Pub. L. 95–632, § 2(4), (7) added pars. (11) and (12). Former pars. (11) and (12) redesignated (16) and (17), respectively.

Pars. (13) to (15). Pub. L. 95–632, § 2(7), redesignated former pars. (8) to (10) as (13) to (15), respectively. Former pars. (13) to (15) redesignated as (18) to (20), respectively.

Par. (16). Pub. L. 95–632, § 2(5), (7), redesignated former par. (11) as (16), and as so redesignated, substituted "and any distinct population segment of any species of vertebrate fish or wildlife which interbreeds when mature" for "and any other group of fish or wildlife of the same species or smaller taxa in common spatial arrangement that interbreed when mature". Former par. (16) redesignated (21).

Par. (17). Pub. L. 95–632, § 2(7), redesignated former par. (12) as (17).

Par. (18). Pub. L. 95–632, § 2(6), (7), redesignated former par. (13) as (18), and as so redesignated, substituted "fish, plant, or wildlife" for "fish or wildlife".

Pars. (19) to (21). Pub. L. 95–632, § 2(7), redesignated pars. (14) to (16) as (19) to (21), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1536 of this title.

§ 1533. Determination of endangered species and threatened species

(a) Generally

(1) The Secretary shall be regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

[See main edition for text of subpars. (1) to (5)]

At the time any such regulation is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat. The requirement of the preceding sentence shall not apply with respect to any species which was listed prior to November 10, 1978.

[See main edition for text of (2)]

(b) Basis for determinations

[See main edition for text of (1) to (3)]

(4) In determining the critical habitat of any endangered or threatened species, the Secretary shall consider the economic impact, and any other relevant impacts, of specifying any particular area as critical habitat, and he may exclude any such area from the critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying the area as part of the critical habitat, unless he determines, based on the best scientific and commercial data available, that the failure to designate such area as critical habitat will result in the extinction of the species.

(c) Lists

(1) The Secretary of the Interior shall publish in the Federal Register, and from time to time he may by regulation revise, a list of all species determined by him or the Secretary of Commerce to be endangered species and a list of all species determined by him or the Secretary of Commerce to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, specify with respect to each such species over what portion of its range it is endangered or threatened, and specify any critical habitat within such range.

(2) The Secretary shall, within 90 days of the receipt of the petition of an interested person under section 553(e) of title 5, conduct and publish in the Federal Register a review of the status of any listed or unlisted species proposed to be removed from or added to either of the lists published pursuant to paragraph (1) of this subsection, but only if he makes and publishes a finding that such person has presented substantial evidence which in his judgment warrants such a review. Such review and finding shall be made and published prior to the initiation of any procedures under subsection (b)(1) of this section.

[See main edition for text of (3)]

(4) The Secretary shall—

(A) conduct, at least once every five years, a review of all species included in a list which is published pursuant to paragraph (1) and which is in effect at the time of such review; and

(B) determine on the basis of such review whether any such species should—

(i) be removed from such list;

(ii) be changed in status from an endangered species to a threatened species; or

(iii) be changed in status from a threatened species to an endangered species.

Each determination under subparagraph (B) shall be made in accordance with the provisions of subsections (a) and (b) of this section.

[See main edition for text of (d) and (e)]

(f) Regulations

[See main edition for text of (1)]

(2)(A) Except as provided in subparagraph (B), in the case of any regulation proposed by the Secretary to carry out the purposes of this chapter—

[See main edition for text of (i) and (ii)]

(B) In the case of any regulation proposed by the Secretary to carry out the purposes of this section with respect to the determination and listing of endangered or threatened species and their critical habitats in any State (other than regulations to implement the Convention), the Secretary—

(i) shall publish general notice of the proposed regulation (including the complete text of the regulation), not less than 60 days before the effective date of the regulation—

(I) in the Federal Register, and

(II) if the proposed regulation specifies any critical habitat, in a newspaper of general circulation within or adjacent to such habitat;

(ii) shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in clause (i)(I);

(iii) shall give actual notice of the proposed regulation (including the complete text of the regulation), and any environmental assessment or environmental impact statement prepared on the proposed regulation, not less than 60 days before the effective date of the regulation to all general local governments located within or adjacent to the proposed critical habitat, if any; and

(iv) shall—

(I) if the proposed regulation does not specify any critical habitat, promptly hold a public meeting on the proposed regulation within or adjacent to the area in which the endangered or threatened species is located, if request therefor is filed with the Secretary by any person within 45 days after the date of publication of general notice under clause (i)(I), and

(II) if the proposed regulation specifies any critical habitat, promptly hold a public meeting on the proposed regulation within the area in which such habitat is located in each State, and, if requested, hold a public hearing in each such State.

If a public meeting or hearing is held on any regulation, the regulation may not take effect before the 60th day after the date on which the meeting or hearing is concluded, and if more than one public meeting or hearing is held, before the 60th day after the date on which the last such meeting or hearing is concluded. Any accidental failure to provide actual notice under clause (ii) to all general local governments required to be given notice shall not invalidate the proposed regulation.

(C) Neither subparagraph (A) or (B) of this paragraph nor section 553 of title 5 shall apply in the case of any of the following regulations and any such regulation shall, at the discretion of the Secretary, take effect immediately upon publication of the regulation in the Federal Register:

(i) Any regulation appropriate to carry out the purposes of this chapter which was originally promulgated to carry out the Endangered Species Conservation Act of 1969.

(ii) Any regulation (including any regulation implementing section 1535(g)(2)(B)(ii) of this title) issued by the Secretary in regard to any emergency posing a significant risk to the well-being of any species of fish or wildlife, but only if (I) at the time of publication of the regulation in the Federal Register the Secretary publishes therein detailed reasons why such regulation is necessary, and (II) in the case such regulation applies to resident species of fish and wildlife, the requirements of subsection (b)(1)(A) of this section have been complied with. Any regulation promulgated under the authority of this clause (ii) shall cease to have force and effect at the close of the 120-day period following the date of publication unless, during such 120-day period, the rulemaking procedures which would apply to such regulation without regard to this subparagraph are complied with.

(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this chapter shall include a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulations.

(4) Any proposed or final regulation which specifies any critical habitat of any endangered species or threatened species shall be based on the best scientific data available, and the publication in the Federal Register of any such regulation shall, to the maximum extent practicable, be accompanied by a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify such habitat, or may be impacted by such designation.

(5) A final regulation adding a species to any list published pursuant to subsection (c) of this section shall be published in the Federal Register not later than two years after the date of publication of notice of the regulation proposing such listing under paragraph (B)(i)(I). If a final regulation is not adopted within such two-year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the Federal Register not later than 30 days after the end of such period. The Secretary shall not propose a regulation adding to such a list any species for which a proposed regulation has been withdrawn under this paragraph unless he determines that sufficient new information is available to warrant the proposal of a regulation. No proposed regulation for the listing of any species published before November 10, 1978, shall be withdrawn under this paragraph before the end of the one-year period beginning on November 10, 1978.

(g) Recovery plans

The Secretary shall develop and implement plans (hereinafter in this subsection referred to as "recovery plans") for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.

(As amended Pub. L. 95-632, §§ 11, 13, Nov. 10, 1978, 92 Stat. 3764, 3766.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (g), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95-632, § 11(1), inserted provision requiring the Secretary, at the time a regulation is proposed, to specify by regulation any habitat of the species involved which is considered a critical habitat providing the species was listed subsequent to Nov. 10, 1978.

Subsec. (b)(4). Pub. L. 95-632, § 11(7), added subsec. (b)(4).

Subsec. (c)(1). Pub. L. 95-632, § 11(2), struck out "and shall" following "if any" and inserted ", and specify any critical habitat within such range" following "endangered or threatened".

Subsec. (c)(2). Pub. L. 95–632, § 11(6), substituted "within 90 days of the receipt of" for "upon" and "conduct and publish in the Federal Register a review of the status of" for "conduct a review of" and inserted a provision requiring that the review and findings be made and published prior to initiation of any procedures under subsec. (b)(1) of this section.

Subsec. (c)(4). Pub. L. 95–632, § 11(3), added subsec. (c)(4).

Subsec. (f)(2)(A). Pub. L. 95–632, § 11(4)(A), substituted "Except as provided in subparagraph (B), in" for "In".

Subsec. (f)(2)(B). Pub. L. 95–632, § 11(4)(B), (C), added subsec. (f)(2)(B). Former subsec. (f)(2)(B) redesignated (f)(2)(C).

Subsec. (f)(2)(C). Pub. L. 95–632, § 11(4)(C), redesignated former subsec. (f)(2)(B) as (f)(2)(C), and as so redesignated, substituted "Neither subparagraph (A) or (B)" for "Neither subparagraph (A)".

Subsec. (f)(3). Pub. L. 95–632, § 13, substituted "a summary by the Secretary of the data on which such regulation is based and shall show the relationship of such data to such regulations" for "a statement by the Secretary of the facts on which such regulation is based and the relationship of such facts to such regulation".

Subsec. (f)(4),(5). Pub. L. 95–632, § 11(4)(D), added subsec. (f)(4) and (5).

Subsec. (g). Pub. L. 95–632, § 11(5), added subsec. (g).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 460k–1, 668dd, 670h, 715i, 715s, 1402, 1532, 1534 to 1540 of this title.

§ 1534. Land acquisition

(a) The Secretary, and the Secretary of Agriculture with respect to the National Forest System, shall establish and implement a program to conserve fish, wildlife, and plants, including those which are listed as endangered species or threatened species pursuant to section 1533 of this title. To carry out such a program, the appropriate Secretary—

[See main edition for text of (1) and (2); (b)]

(As amended Pub. L. 95–632, § 12, Nov. 10, 1978, 92 Stat. 3766.)

AMENDMENTS

1978—Subsec. (a). Pub. L. 95–632, among other changes in material preceding par. (1), inserted reference to the Secretary of Agriculture with respect to the National Forest System and substituted the establishment and implementation of a plan to conserve plants for the establishment and implementation of a plan to conserve plants which were concluded in Appendices to the Convention.

§ 1535. Cooperation with the States

[See main edition for text of (a) and (b)]

(c) Cooperative agreements

(1) In furtherance of the purposes of this chapter, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this chapter. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this chapter, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species and threatened species, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

(A) authority resides in the State agency to conserve resident species of fish or wildlife determined by the State agency or the Secretary to be endangered or threatened;

(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this chapter, for all resident species of fish or wildlife in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of fish and wildlife;

(D) the State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered or threatened species of fish or wildlife; and

(E) provision is made for public participation in designating resident species of fish or wildlife as endangered or threatened; or

that under the State program—

(i) the requirements set forth in subparagraphs (C), (D), and (E) of this paragraph are complied with, and

(ii) plans are included under which immediate attention will be given to those resident species of fish and wildlife which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 1533(d) of this title or section 1538(a)(1) of this title with respect to the taking of any resident endangered or threatened species.

(2) In furtherance of the purposes of this chapter the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this chapter. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this chapter, he shall enter into a cooperative agreement with

the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this chapter, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

that under the State program—

(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 1533(d) or section 1538(a)(1) of this title with respect to the taking of any resident endangered or threatened species.

[*See main edition for text of (d) to (h)*]

(i) Authorization of appropriations

For the purposes of this section, there are authorized to be appropriated not to exceed the following sums:

(1) $10,000,000 through the period ending September 30, 1977.

(2) $16,000,000 for the period beginning October 1, 1977, and ending September 30, 1981.

(As amended Pub. L. 95-212, Dec. 19, 1977, 91 Stat. 1493; Pub. L. 95-632, § 10, Nov. 10, 1978, 92 Stat. 3762.)

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-632 designated existing provision as par. (1), and in par. (1) as so designated, redesignated pars. (1) to (5) as subpars. (A) and (E), respectively, and subpars. (A) and (B) of subpar. (E), as so redesignated, as cls. (i) and (ii), respectively, substituted "paragraph" for "subsection" in provision preceding subpar. (A), as so redesignated, "endangered or threatened species of fish or wildlife" for "endangered species or threatened species" in subpar. (D), as so redesignated, "subparagraphs (C), (D), and (E) of this paragraph" for "paragraphs (3), (4), and (5) of this subsection" in cl. (i) of subpar. (E), as so redesignated, "clause (i) and this clause" for "subparagraph (A) and this subparagraph" in cl. (ii) of subpar. (E), as so redesignated, and added par. (2).

1977—Subsec. (c). Pub. L. 95-212, § 1(1), added language providing that States in which the State fish and wildlife agencies do not possess the broad authority to conserve all resident species of fish and wildlife which the Secretary determines to be threatened or endangered may nevertheless qualify for cooperative agreement funds if they satisfy all other requirements and have plans to devote immediate attention to those species most urgently in need of conservation programs.

Subsec. (i). Pub. L. 95-212, § 1(2), substituted provisions authorizing appropriations of $10,000,000 to cover the period ending Sept. 30, 1977, and $16,000,000 to cover the period beginning Oct. 1, 1977, and ending Sept. 30, 1981, for provisions authorizing appropriations of not to exceed $10,000,000 through the fiscal year ending June 30, 1977.

§ 1536. Interagency cooperation

(a) Consultation

The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 1533 of this title. Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

(b) Opinion of Secretary

Consultation under subsection (a) of this section with respect to any agency action shall be concluded within 90 days after the date on which initiated or within such other period of time as is mutually agreeable to the Federal agency and the Secretary. Promptly after the conclusion of consultation, the Secretary shall provide to the Federal agency concerned a written statement setting forth the Secretary's opinion, and a summary of the information on which the opinion is based, detailing how the agency action affects the species or its critical habitat. The Secretary shall suggest those reasonable and prudent alternatives which he believes would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying the critical habitat of such species, and which can be taken by the Federal agency or the permit or license applicant in implementing the agency action.

(c) Biological assessment

To facilitate compliance with the requirements of subsection (a) of this section, each Federal agency shall, with respect to any agency action of such agency for which no contract for construction has been entered into and for which no construction has begun on November 10, 1978, request of the Secretary information whether any species which is listed or proposed to be listed may be present in the area of such proposed action. If the Secretary advises, based on the best scientific and commercial data available, that such species may be present, such agency shall conduct a biological assessment for the purpose of identifying any endangered species or threatened species which is likely to be affected by such action. Such assessment shall be completed within 180 days after the date on which initiated (or within such other period as is mutually agreed to by the Secretary and such agency) and, before any contract for construction is entered into and before construction is begun with respect to such action. Such assessment may be undertaken as part of a Federal agency's compliance with the requirements of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

(d) Limitation on commitment of resources

After initiation of consultation required under subsection (a) of this section, the Federal agency and the permit or license applicant shall not make any irreversible or irretrievable commitment of resources with respect to the agency action which has the effect of foreclosing the formulation or implementation of any reasonable and prudent alternative measures which would avoid jeopardizing the continued existence of any endangered or threatened species or adversely modifying or destroying the critical habitat of any such species.

(e) Endangered Species Committee

(1) There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the "Committee").

(2) The Committee shall review any application submitted to it pursuant to this section and determine in accordance with subsection (h) of this section whether or not to grant an exemption from the requirements of subsection (a) of this section for the action set forth in such application.

(3) The Committee shall be composed of seven members as follows:

(A) The Secretary of Agriculture.

(B) The Secretary of the Army.

(C) The Chairman of the Council of Economic Advisors.

(D) The Administrator of the Environmental Protection Agency.

(E) The Secretary of the Interior.

(F) The Administrator of the National Oceanic and Atmospheric Administration.

(G) The President, after consideration of any recommendations received pursuant to subsection (g)(2)(B) of this section shall appoint one individual from each affected State, as determined by the Secretary, to be a member of the Committee for the consideration of the application for exemption for an agency action with respect to which such recommendations are made, not later than 30 days after an application is submitted pursuant to this section.

(4)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(5)(A) Five members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee, except that, in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee.

(B) The Secretary of the Interior shall be the Chairman of the Committee.

(C) The Committee shall meet at the call of the Chairman or five of its members.

(D) All meetings and records of the Committee shall be open to the public.

(6) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

(7)(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

(C) Subject to the Privacy Act [5 U.S.C. 552a], the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

(D) The Committee may use the United States mails in the same manner and upon the same conditions as a Federal agency.

(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

(8) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

(9) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

(10) Except in the case of a member designated pursuant to paragraph (3)(G) of this subsection, no member shall designate any person to serve as his or her representative unless that person is, at the time of such designation, holding a Federal office the appointment to which is subject to the advice and consent of the United States Senate. In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

(f) Promulgation of regulations; form and contents of exemption application

Not later than 90 days after November 10, 1978, the Secretary shall promulgate regulations which set forth the form and manner in which applications for exemption shall be submitted to the Secretary and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any agency action include, but not be limited to—

(1) a description of the consultation process carried out pursuant to subsection (a) of this section between the head of the Federal agency and the Secretary; and

(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a) of this section.

(g) Submittal of application for exemption; consideration by appointed review board; report to Committee

(1) A Federal agency, the Governor of the State in which an agency action will occur, if any, or a permit or license applicant may apply to the Secretary for an exemption for an agency action of such agency if, after consultation under subsection (a) of this section, the Secretary's opinion under subsection (b) of this section indicates that the agency action may jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify the critical habitat of such species. An application for an exemption shall be considered initially by a review board in the manner provided in this subsection, and shall be considered by the Endangered Species Committee for a final determination under subsection (h) of this section after a report is made by the review board. The applicant for an exemption shall be referred to as the "exemption applicant" in this section.

(2)(A) An exemption applicant shall submit a written application to the Secretary, in a form prescribed under subsection (f) of this section, not later than 90 days after the completion of the consultation process. Such application shall set forth the reasons why the exemption applicant considers that the agency action meets the requirements for an exemption under this subsection.

(B) Upon receipt of an application for exemption for an agency action under paragraph (1), the Secretary shall promptly notify the Governor of each affected State, if any, as determined by the Secretary, and request the Governors so notified to recommend individuals to be appointed to the review board to be established under paragraph (3) and to the Endangered Species Committee for consideration of such application.

(3)(A) A review board shall be established for purposes of considering an application for exemption and submitting a report to the Endangered Species Committee under this subsection as follows:

(i) One individual shall be appointed to the board by the Secretary not later than 15 days after an application is submitted pursuant to paragraph (2).

(ii) One individual shall be appointed to the board by the President, not later than 30 days after an application is submitted pursuant to paragraph (2) and after consideration of any recommendations received pursuant to paragraph (2)(B). An individual appointed by the President under this subparagraph shall be a resident of a State, if any, in which the agency action will be, or is being, carried out.

(iii) One administrative law judge shall be selected to serve on the board by the Director of the Office of Personnel Management in the same manner as administrative law judges are selected under section 3344 of title 5 to be detailed to an agency which occasionally or temporarily is insufficiently staffed with administrative law judges. The use by the review board of such an administrative law judge shall be on a reimbursable basis.

(B) Members of a review board who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the board. All other members shall be entitled to receive an amount not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day during which they are engaged in the actual performance of duties vested in the board. While away from their homes or regular places of business in the performance of services for a review board, members of the board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5.

(4) The Secretary shall submit the application to the review board immediately after its appointment under paragraph (3), and the Secretary shall submit to the review board, in writing, his views and recommendations with respect to the application within 60 days after receiving a copy of any application under paragraph (2).

(5) It shall be the duty of a review board appointed under paragraph (3) to make a full review of the consultation carried out under subsection (a) of this section, and within 60 days after its appointment or within such longer time as is mutually agreed upon between the exemption applicant and the Secretary, to make a determination, by a majority vote, (1) whether an irresolvable conflict exists and (2) whether such exemption applicant has—

(A) carried out its consultation responsibilities as described in subsection (a) of this section in good faith and made a reasonable and responsible effort to develop and fairly con-

sider modifications or reasonable and prudent alternatives to the proposed agency action which will avoid jeopardizing the continued existence of an endangered or threatened species or result in the adverse modification or destruction of a critical habitat;

(B) conducted any biological assessment required of it by subsection (c) of this section; and

(C) refrained from making any irreversible or irretrievable commitment of resources prohibited by subsection (d) of this section.

Any determination by the review board that an irresolvable conflict does not exist or that the exemption applicant has not met the requirements of subparagraph (A), (B), or (C) shall be considered final agency action for purposes of chapter 7 of title 5.

(6) If the review board determines that an irresolvable conflict exists and makes positive determinations under subparagraphs (A), (B), and (C) of paragraph (5), it shall proceed to prepare the report to be submitted under paragraph (7).

(7) Within 180 days after making the determinations under paragraph (6), the review board shall submit to the Committee a report discussing—

(A) the availability of reasonable and prudent alternatives to the agency action, and the nature and extent of the benefits of the agency action and of alternative courses of action consistent with conserving the species or the critical habitat;

(B) a summary of the evidence concerning whether or not the agency action is in the public interest and is of national or regional significance;

(C) appropriate reasonable mitigation and enhancement measures which should be considered by the Committee.

(8) To the extent practicable within the time required for action under subsection (g) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under this subsection shall be in accordance with sections 554, 555, and 556 (other than subsection (b)(3) of section 556) of title 5.

(9) In carrying out its duties under this subsection, a review board may, and any member of a review board if so authorized by the review board, may—

(A) sit and act at such times and places, take such testimony, and receive such evidence, as the review board deems advisable;

(B) subject to the Privacy Act of 1974 [5 U.S.C. 552a], request of any Federal agency or applicant information necessary to enable it to carry out such duties, and upon such request the head of such Federal agency shall furnish such information to the review board; and

(C) use the United States mails in the same manner and upon the same conditions as a Federal agency.

(10) Upon request of a review board, the head of any Federal agency is authorized to detail, on a nonreimbursable basis, any of the personnel of such agency to the review board to assist it in carry [1] out its duties under this section.

(11) The Administrator of the General Services Administration shall provide to a review board, on a reimbursable basis, such administrative support services as the review board may request.

(12) All meetings and records of review boards shall be open to the public.

(h) Grant of exemption

(1) The Committee shall make a final determination whether or not to grant an exemption within 90 days of receiving the report of the review board under subsection (g)(7) of this section. The Committee shall grant an exemption from the requirements of subsection (a) of this section for an agency action if, by a vote of not less than five of its members voting in person—

(A) it determines on the record, based on the report of the review board and on such other testimony or evidence as it may receive, that—

(i) there are no reasonable and prudent alternatives to the agency action;

(ii) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest; and

(iii) the action is of regional or national significance; and

(B) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as are necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.

Any final determination by the Committee under this subsection shall be considered final agency action for purposes of chapter 7 of title 5.

(2)(A) Except as provided in subparagraph (B), an exemption for an agency action granted under subsection (h) of this section shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action: *Provided*, That a biological assessment has been conducted under subsection (c) of this section.

(B) An exemption shall not be permanent under subparagraph (A) if the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of the species. If the Secretary so finds, the Committee shall determine within 30 days after such finding whether to grant an exemption for the agency action notwithstanding the Secretary's finding.

(i) Review by Secretary of State; violation of international treaty or other international obligation of United States

Notwithstanding any other provision of this chapter, the Committee shall be prohibited from considering for exemption any application made to it, if the Secretary of State, after a

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[1] So in original. Probably should be "carrying".

review of the proposed agency action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any application made under this section that the granting of any such exemption and the carrying out of such action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

(j) Exemption for national security reasons

Notwithstanding any other provision of this chapter, the Committee shall grant an exemption for any agency action if the Secretary of Defense finds that such exemption is necessary for reasons of national security.

(k) Exemption decision not considered major federal action; environmental impact statement

An exemption decision by the Committee under this section shall not be a major Federal action for purposes of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.]: *Provided*, That an environmental impact statement which discusses the impacts upon endangered species or threatened species or their critical habitats shall have been previously prepared with respect to any agency action exempted by such order.

(l) Committee order granting exemption; cost of mitigation and enhancement measures; report by applicant to Council on Environmental Quality

(1) If the Committee determines under subsection (h) of this section that an exemption should be granted with respect to any agency action, the Committee shall issue an order granting the exemption and specifying the mitigation and enhancement measures established pursuant to subsection (h) of this section which shall be carried out and paid for by the exemption applicant in implementing the agency action. All necessary mitigation and enhancement measures shall be authorized prior to the implementing of the agency action and funded concurrently with all other project features.

(2) The applicant receiving such exemption shall include the costs of such mitigation and enhancement measures within the overall costs of continuing the proposed action. Notwithstanding the preceding sentence the costs of such measures shall not be treated as project costs for the purpose of computing benefit-cost or other ratios for the proposed action. Any applicant may request the Secretary to carry out such mitigation and enhancement measures. The costs incurred by the Secretary in carrying out any such measures shall be paid by the applicant receiving the exemption. No later than one year after the granting of an exemption, the exemption applicant shall submit to the Council on Environmental Quality a report describing its compliance with the mitigation and enhancement measures prescribed by this section. Such a report shall be submitted annually until all such mitigation and enhancement measures have been completed. Notice of the public availability of such reports shall be published in the Federal Register by the Council on Environmental Quality.

(m) Notice requirement for citizen suits not applicable

The 60-day notice requirement of section 1540(g) of this title shall not apply with respect to review of any final determination of the Committee under subsection (h) of this section granting an exemption from the requirements of subsection (a) of this section.

(n) Judicial review

Any person, as defined by section 1532(13) of this title, may obtain judicial review, under chapter 7 of title 5, of any decision of the Endangered Species Committee under subsection (h) of this section in the United States Court of Appeals for (1) any circuit wherein the agency action concerned will be, or is being, carried out, or (2) in any case in which the agency action will be, or is being, carried out outside of any circuit, the District of Columbia, by filing in such court within 90 days after the date of issuance of the decision, a written petition for review. A copy of such petition shall be transmitted by the clerk of the court to the Committee and the Committee shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Attorneys designated by the Endangered Species Committee may appear for, and represent the Committee in any action for review under this subsection.

(o) Exemption as providing exception on taking of endangered species

Notwithstanding sections 1533(d) and 1538(a) of this title or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (h) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action.

(p) Exemptions in Presidentially declared disaster areas

In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974 [42 U.S.C. 5121 et seq.], the President is authorized to make the determinations required by subsections (g) and (h) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974 [42 U.S.C. 5171 or 5172], and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to reduce the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section, the Committee shall accept the determinations of the President under this subsection.

(q) Authorization of appropriations

There is authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed $600,000 for fiscal year 1979, and not to exceed $300,000 for the period beginning October 1, 1979, and ending March 31, 1980. The Chairman of the Committee shall report to

the Congress before the end of fiscal year 1979 with respect to the adequacy of the budget authority contained in this subsection.

(As amended Pub. L. 95-632, § 3, Nov. 10, 1978, 92 Stat. 3752; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3784.)

REFERENCES IN TEXT

The Privacy Act and the Privacy Act of 1974, referred to in subsecs. (e)(7)(C) and (g)(9)(B), respectively, are Pub. L. 93-579, Dec. 31, 1974, 88 Stat. 1896, as amended, which enacted section 552a of Title 5, Government Organization and Employees, and provisions set out as notes under section 552a of Title 5. For complete classification of this Act to the Code, see Short Title note set out under section 552a of Title 5 and Tables.

The General Schedule, referred to in subsec. (g)(3)(B), is set out under section 5332 of Title 5, Government Organization and Employees.

The National Environmental Policy Act of 1969, referred to in subsec. (k), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Disaster Relief Act of 1974, referred to in subsec. (p), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§ 5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-632 designated existing provision as subsec. (a), and as so designated, inserted reference to agency action, substituted "adverse modification" for "modification", and provided for the grant of an exemption for agency action by the Endangered Species Committee pursuant to subsec. (h) of this section.

Subsecs. (b) to (q). Pub. L. 95-632 added subsecs. (b) to (q).

TRANSFER OF FUNCTIONS

"Director of the Office of Personnel Management" was substituted for "Civil Service Commission" pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3784, set out under section 1101 of Title 5, Government Organization and Employees, which transferred all functions vested by statute in the United States Civil Service Commission to the Director of the Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1532, 1539, 1542 of this title.

§ 1538. Prohibited acts

[See main edition for text of (a)]

(b) Species held in captivity or controlled environment

(1) The provisions of this section shall not apply to any fish or wildlife held in captivity or in a controlled environment on December 28, 1973, if the purposes of such holding are not contrary to the purposes of this chapter; except that this subsection shall not apply in the case of any fish or wildlife held in the course of a commercial activity. With respect to any act prohibited by this section which occurs after a period of 180 days from December 28, 1973, there shall be a rebuttable presumption that the fish or wildlife involved in such act was not held in captivity or in a controlled environment on December 28, 1973.

(2)(A) This section shall not apply to—

(i) any raptor legally held in captivity or in a controlled environment on November 10, 1978; or

(ii) any progeny of any raptor described in clause (i);

until such time as any such raptor or progeny is intentionally returned to a wild state.

(B) Any person holding any raptor or progeny described in subparagraph (A) must be able to demonstrate that the raptor or progeny does, in fact, qualify under the provisions of this paragraph, and shall maintain and submit to the Secretary, on request, such inventories, documentation, and records as the Secretary may by regulation require as being reasonably appropriate to carry out the purposes of this paragraph. Such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.

[See main edition for text of (c) to (g)]

(As amended Pub. L. 95-632, § 4, Nov. 10, 1978, 92 Stat. 3760.)

AMENDMENTS

1978—Subsec. (b). Pub. L. 95-632 designated existing provision as par. (1) and added par. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1533, 1535, 1536, 1539, 1540 of this title.

§ 1539. Exceptions

[See main edition for text of (a) to (g)]

(h) Certain antique articles; importation; port designation; application for return of articles

(1) Sections 1533(d) and 1538(a) and (c) of this title do not apply to any article (other than scrimshaw) which—

(A) was made before 1830;

(B) is composed in whole or in part of any endangered species or threatened species listed under section 1533 of this title;

(C) has not been repaired or modified with any part of any such species on or after November 10, 1978; and

(D) is entered at a port designated under paragraph (3).

(2) Any person who wishes to import an article under the exception provided by this subsection shall submit to the customs officer concerned at the time of entry of the article such documentation as the Secretary of the Treasury, after consultation with the Secretary of the Interior, shall by regulation require as being necessary to establish that the article meets the requirements set forth in paragraph (1)(A), (B), and (C).

(3) The Secretary of the Treasury, after consultation with the Secretary of the Interior, shall designate one port within each customs

region at which articles described in paragraph (1)(A), (B), and (C) must be entered into the customs territory of the United States.

(4) Any person who imported, after December 27, 1973, and on or before November 10, 1978, any article described in paragraph (1) which—

(A) was not repaired or modified after the date of importation with any part of any endangered species or threatened species listed under section 1533 of this title;

(B) was forfeited to the United States before November 10, 1978, or is subject to forfeiture to the United States on such date of enactment, pursuant to the assessment of a civil penalty under section 1540 of this title; and

(C) is in the custody of the United States on November 10, 1978;

may, before the close of the one-year period beginning on November 10, 1978, make application to the Secretary for return of the article. Application shall be made in such form and manner, and contain such documentation, as the Secretary prescribes. If on the basis of any such application which is timely filed, the Secretary is satisfied that the requirements of this paragraph are met with respect to the article concerned, the Secretary shall return the article to the applicant and the importation of such article shall, on and after the date of return, be deemed to be a lawful importation under this chapter.

(i) Tellico and Grayrocks Projects; design and operation of Missouri Basin Power Project

(1) Notwithstanding any other provision of this chapter, the Committee shall, within 30 days of November 10, 1978, proceed to consider the exemption of the Tellico Dam and Reservoir Project and the Grayrocks Dam and Reservoir Project from the requirements of section 1536(a) of this title. For the purposes of such consideration, the Committee shall grant an exemption to such projects if the criteria of section 1536(h)(1)(A)(i) and (ii) of this title are met. A decision on any such exemption shall be made within 90 days after November 10, 1978. If no decision is made within such 90-day period, such project shall be deemed to be exempted from the requirements of section 1536(a) of this title.

(2) Following the rendering of a biological opinion by the United States Fish and Wildlife Service concerning the effect, if any, of the operation of the Missouri Basin Power Project on endangered species or their critical habitat, the responsible officers of the Rural Electrification Administration, the Secretary of the Interior, and the Secretary of the Army, shall require such modifications in the operation or design of the project as they may determine are required to insure that actions authorized, funded, or carried out by them, relating to the Missouri Basin Power Project do not jeopardize the continued existence of such endangered species or result in the destruction or adverse modification of habitat of such species which is or has been determined to be critical by the Secretary of the Interior, after consultation as appropriate with the affected States.

(As amended Pub. L. 95-632, § 5, Nov. 10, 1978, 92 Stat. 3760.)

AMENDMENTS

1978—Subsecs. (h), (i). Pub. L. 95-632 added subsecs. (h) and (i).

§ 1540. Penalties and enforcement

(a) Civil penalties

(1) Any person who knowingly violates, and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates, any provision of this chapter, or any provision of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F), (a)(2)(A), (B), or (C), (c), (d) (other than regulation relating to recordkeeping or filing of reports), (f) or (g) of section 1538 of this title, may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation. Any person who knowingly violates, and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates, any provision of any other regulation issued under this chapter may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Any person who otherwise violates any provision of this chapter, or any regulation, permit, or certificate issued hereunder, may be assessed a civil penalty by the Secretary of not more than $500 for each such violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

[*See main edition for text of (2)*]

(3) Notwithstanding any other provision of this chapter, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.

(b) Criminal violations

(1) Any person who knowingly violates any provision of this chapter, of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1)(A), (B), (C), (D), (E), or (F), (a)(2)(A), (B), or (C), (c), (d) (other than a regulation relating to recordkeeping, or filing of reports), (f), or (g) of section 1538 of this title shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both. Any person who knowingly violates any

provision of any other regulation issued under this chapter shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than six months, or both.

(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted of a criminal violation of this chapter or any regulation, permit, or certificate issued hereunder may immediately modify, suspend, or revoke each lease, license, permit, or other agreement. The Secretary shall also suspend for a period of up to one year, or cancel, any Federal hunting or fishing permits or stamps issued to any person who is convicted of a criminal violation of any provision of this chapter or any regulation, permit, or certificate issued hereunder. The United States shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension, or revocation of any leases, licenses, permits, stamps, or other agreements pursuant to this section.

(3) Notwithstanding any other provision of this chapter, it shall be a defense to prosecution under this subsection if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual, from bodily harm from any endangered or threatened species.

[See main edition for text of (c) to (h)]

(As amended Pub. L. 95-632, §§ 6-8, Nov. 10, 1978, 92 Stat. 3761, 3762.)

AMENDMENTS

1978—Subsec. (a)(1). Pub. L. 95-632, § 6(1),(2), substituted "and any person engaged in business as an importer or exporter of fish, wildlife, or plants who violates" for "or who knowingly commits an act in the course of a commercial activity which violates" in two places and "$500" for "$1,000".

Subsec. (a)(3). Pub. L. 95-632, § 7, added subsec. (a)(3).

Subsec. (b)(1). Pub. L. 95-632, § 6(3), substituted "knowingly" for "willfully commits an act which" in two places.

Subsec. (b)(2). Pub. L. 95-632, § 6(4), inserted "a person to import or export fish, wildlife, or plants, or to operate a quarantine station for imported wildlife, or authorizing" following "authorizing".

Subsec. (b)(3). Pub. L. 95-632, § 8, added subsec. (b)(3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1536, 1539 of this title.

§ 1542. Authorization of appropriations

Except as authorized in sections 1535 and 1536 of this title, there are authorized to be appropriated—

(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1977,[1] and the fiscal year September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, and not to exceed $12,500,000 for the period beginning October 1, 1979, and ending March 31, 1980.

(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $12,500,000 for the period beginning October 1, 1979 and ending March 31, 1980, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this chapter.

(As amended Pub. L. 95-632, § 9, Nov. 10, 1978, 92 Stat. 3762.)

AMENDMENTS

1978—Pub. L. 95-632, in provision preceding par. (1), substituted "sections 1535 and 1536 of this title" for "section 1535 of this title".

Par. (1). Pub. L. 95-632 substituted provision authorizing appropriations of not to exceed $25,000,000 for the fiscal year ending Sept. 30, 1977 and the fiscal year ending Sept. 30, 1978, of not to exceed $23,000,000 for the fiscal year ending Sept. 30, 1979, and of not to exceed $12,500,000 for the period beginning Oct. 1, 1979 and ending Mar. 31; 1980 for provision authorizing appropriations of not to exceed $10,000,000 for the fiscal year ending June 30, 1976, of not to exceed $1,800,000 for the fiscal transitional period ending Sept. 30, 1976, and of not to exceed a total of $25,000,000 for the fiscal year ending Sept. 30, 1977 and the fiscal year ending Sept. 30, 1978, to enable the Department of Interior to carry out its functions under this chapter.

Par. (2). Pub. L. 95-632 substituted provision authorizing appropriations of not to exceed $5,000,000 for the fiscal year ending Sept. 30, 1977 and the fiscal year ending Sept. 30, 1978, of not to exceed $2,500,000 for the fiscal year ending Sept. 30, 1979, and of not to exceed $12,500,000 for the period beginning Oct. 1, 1979 and ending Mar. 31, 1980 for provision authorizing appropriations of not to exceed $2,000,000 for the fiscal year ending June 30, 1976, of not to exceed $500,000 for the fiscal transitional period ending Sept. 30, 1976 and of not to exceed a total of $5,000,000 for the fiscal year Sept. 30, 1977 and the fiscal year ending Sept. 30, 1978.

CHAPTER 36—FOREST AND RANGELAND RENEWABLE RESOURCES PLANNING

SUBCHAPTER I—PLANNING [NEW]

Sec.
1600. Congressional findings.
1601. Renewable Resource Assessment.
(a) Preparation by Secretary of Agriculture; time of preparation, updating and contents.
(b) Contents of assessments.
(c) Public involvement; consultation with governmental departments and agencies.
(d) Congressional policy of multiple use sustained yield management; examination and certification of lands; estimate of appropriations necessary for reforestation and other treatment; budget requirements; authorization of appropriations.
(e) Report on herbicides and pesticides.
1602. Renewable Resource Program; preparation by Secretary of Agriculture and transmittal to President; purpose and development of program; time of preparation, updating and contents.

[1] So in original. A single reference to the fiscal year ending 1977 was probably intended.

Sec.
1603. National Forest System resource inventories; development, maintenance, and updating by Secretary of Agriculture as part of Assessment.
1604. National Forest System land and resource management plans.
(a) Development, maintenance, and revision by Secretary of Agriculture as part of program; coordination.
(b) Criteria.
(c) Incorporation of standards and guidelines by Secretary; time of completion; progress reports; existing management plans.
(d) Public participation in management plans; availability of plans; public meetings.
(e) Required assurances.
(f) Required provisions.
(g) Promulgation of regulations for development and revision of plans; environmental considerations; resource management guidelines; guidelines for land management plans.
(h) Scientific committee to aid in promulgation of regulations; termination; revision committees; clerical and technical assistance; compensation of committee members.
(i) Consistency of resource plans, permits, contracts, and other instruments with land management plans; revision.
(j) Effective date of land management plans and revisions.
(k) Development of land management plans.
(l) Program evaluation; process for estimating long-term costs and benefits; summary of data included in annual report.
(m) Establishment of standards to ensure culmination of mean annual increment of growth; silvicultural practices; salvage harvesting; exceptions.
1605. Protection, use and management of renewable resources on non-Federal lands; utilization of Assessment, surveys and Program by Secretary of Agriculture to assist States, etc.
1606. Budget requests by President for Forest Service activities.
(a) Transmittal to Speaker of House and President of Senate of Assessment, Program and Statement of Policy used in framing requests; time for transmittal; implementation by President of programs established under Statement of Policy unless Statement subsequently disapproved by Congress; time for disapproval.
(b) Contents of requests to show extent of compliance of projected programs and policies with policies approved by Congress; requests not conforming to approved policies; expenditure of appropriations.
(c) Annual evaluation report to Congress of Program components; time of submission.
(d) Required contents of annual evaluation report.
(e) Additional required contents of annual evaluation report.
(f) Form of annual evaluation report.
Sec.
1607. National Forest System renewable resources; development and administration by Secretary of Agriculture in accordance with multiple use and sustained yield concepts for products and services; target year for operational posture of resources; budget requests.
1608. National Forest Transportation System.
(a) Congressional declaration of policy; time for development; method of financing; financing of forest development roads.
(b) Construction of temporary roadways in connection with timber contracts, and other permits or leases.
(c) Standards of roadway construction.
1609. National Forest System; Congressional declaration of constituent elements and purposes; lands etc., included within; return of lands to public domain; location of Forest Service offices.
1610. Implementation of provisions by Secretary of Agriculture; utilization of information and data of other organizations; avoidance of duplication of planning, etc., definition of "renewable resource".
1611. Limitations on timber removal; variations in allowable sale quantity; public participation; salvage harvesting.
1612. Public participation and advisory boards; functions; membership.
1613. Promulgation of regulations.
1614. Severability of provisions.

SUBCHAPTER II—RESEARCH [NEW]

1641. Congressional statement of findings; application of provisions with planning provisions.
1642. Authorization to conduct, support, and cooperate in investigations, experiments, tests, and other activities; scope and purposes of activities; development of periodic Renewable Resource Assessment through survey and analysis of conditions.
1643. Implementation of provisions.
(a) Establishment and maintenance of research facilities; acquisition, expenditures, etc., for property.
(b) Acceptance, holding, and administration of gifts, donations, and bequests; use and investment of gifts, proceeds, etc.; funding requirements.
(c) Cooperation with Federal, State, and other governmental agencies, public and private agencies, etc.; funding requirements for contributions from cooperators.
1644. Competitive grants; scope and purposes; prerequisites.
1645. General provisions.
(a) Availability of funds to cooperators and grantees.
(b) Coordination of cooperative aid and grants with other aid and grant authorities.
(c) Dissemination of knowledge and technology developed from research activities; cooperation with specified entities.
(d) Additional implementative authorities.
(e) Construction of statutory provisions.
(f) Definitions.
1646. Authorization of appropriations.
1647. Other Federal programs.
(a) Repeal of statutory authorities relating to investigation, experiments, and tests in reforestation and forest products.

Sec.
(b) Force and effect of cooperative and other agreements under repealed statutory authorities relating to investigation, etc., in reforestation and forest products.
(c) Issuance of rules and regulations for implementation of provisions and coordination with agricultural research, extension, and teaching provisions.
(d) Availability of funds appropriated under repealed statutory authorities relating to investigation, etc., in reforestation and forest products.

SUBCHAPTER III—EXTENSION PROGRAMS [NEW]

1671. Congressional statement of findings.
1672. General program authorization.
(a) Types of programs; preconditions and cooperation with State program directors, etc.
(b) Definition.
(c) Use of appropriate educational methods required; scope of methods.
1673. State programs.
(a) Development by State program director, etc., of comprehensive and coordinated program by mutual agreement; consultations; review procedure.
(b) Encouragement by State director, etc., of cooperation between county and State extension staffs and appropriate Federal and State agencies and organizations.
(c) Administration and coordination of program by State director; exception.
(d) Appointment and use of advisory committees by State director, etc.; composition of advisory committees.
(e) Definition.
1674. Renewable Resources Extension Program plan.
(a) Preparation and submission to Congress; purposes; contents.
(b) Considerations governing preparation.
(c) Annual report to Congress.
1675. Authorization of appropriations; criteria for eligibility of States for funds.
1676. Issuance of rules and regulations for implementation of provisions and coordination with agricultural, research, extension, and teaching provisions.

SUBCHAPTER I—PLANNING

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to sections 472a, 670o, 1641, 2101 of this title; title 29 section 994; title 43 section 1721.

§ 1600. Congressional findings

SHORT TITLE OF 1978 AMENDMENTS.

Pub. L. 95-307, § 1, June 30, 1978, 92 Stat. 353, provided: "That this Act [enacting subchapter II of this chapter, repealing sections 581 to 581i of this title, and enacting provisions set out as a note under section 1641 of this title] may be cited as the 'Forest and Rangeland Renewable Resources Research Act of 1978'."

Pub. L. 95-306, § 1, June 30, 1978, 92 Stat. 349, provided: "That this Act [enacting subchapter III of this chapter and provision set out as a note under section 1671 of this title] may be cited as the 'Renewable Resources Extension Act of 1978'."

SHORT TITLE OF 1976 AMENDMENT

Section 1 of Pub. L. 94-588 provided: "That this Act [enacting sections 472a, 521b, 1600, and 1611 to 1614 of this title, amending sections 500, 515, 516, 518, 576b, 581h, and 1601 to 1610 of this title, repealing sections 476, 513 and 514 of this title, and enacting provisions set out as notes under sections 476, 513, 528, 594-2, and 1600 of this title] may be cited as the 'National Forest Management Act of 1976'."

SHORT TITLE

Section 1 of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, provided: "That this Act [which enacted this subchapter and amended section 581h of this title] may be cited as the 'Forest and Rangeland Renewable Resources Planning Act of 1974'."

§ 1601. Renewable Resource Assessment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1606, 1642, 1674, 1675 of this title.

§ 1603. National Forest System resource inventories; development, maintenance, and updating by Secretary of Agriculture as part of Assessment

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 43 section 1903.

§ 1604. National Forest System land and resource management plans

[See main edition for text of (a) and (b)]

(c) Incorporation of standards and guidelines by Secretary; time of completion; progress reports; existing management plans

The Secretary shall begin to incorporate the standards and guidelines required by this section in plans for units of the National Forest System as soon as practicable after October 22, 1976, and shall attempt to complete such incorporation for all such units by no later than September 30, 1985. The Secretary shall report to the Congress on the progress of such incorporation in the annual report required by section 1606(c) of this title. Until such time as a unit of the National Forest System is managed under plans developed in accordance with this subchapter, the management of such unit may continue under existing land and resource management plans.

[See main edition for text of (d) to (j)]

(k) Development of land management plans

In developing land management plans pursuant to this subchapter, the Secretary shall identify lands within the management area which are not suited for timber production, considering physical, economic, and other pertinent factors to the extent feasible, as determined by the Secretary, and shall assure that, except for salvage sales or sales necessitated to protect other multiple-use values, no timber harvesting shall occur on such lands for a period of 10 years. Lands once identified as unsuitable for timber production shall continue to be treated for reforestation purposes, particularly with regard to the protection of other multiple-use values. The Secretary shall review his decision

to classify these lands as not suited for timber production at least every 10 years and shall return these lands to timber production whenever he determines that conditions have changed so that they have become suitable for timber production.

(*l*) Program evaluation; process for estimating long-term costs and benefits; summary of data included in annual report

The Secretary shall—

(1) formulate and implement, as soon as practicable, a process for estimating long-terms [1] costs and benefits to support the program evaluation requirements of this subchapter. This process shall include requirements to provide information on a representative sample basis of estimated expenditures associated with the reforestation, timber stand improvement, and sale of timber from the National Forest System, and shall provide a comparison of these expenditures to the return to the Government resulting from the sale of timber; and

[*See main edition for text of* (2) *and* (*m*)]

CODIFICATION

In subsecs. (e), (k), and (*l*)(1), "subchapter" was substituted for "chapter" in view of the designation of Pub. L. 95-307, June 30, 1978, 92 Stat. 353, known as the Forest and Rangeland Renewable Resources Research Act of 1978, and Pub. L. 95-306, June 30, 1978, 92 Stat. 349, known as the Renewable Resources Extension Act of 1978, as subchapters II and III of this chapter, respectively, and the subsequent redesignation of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, known as the Forest and Rangeland Renewable Resources Planning Act of 1974, as subchapter I of this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1611 of this title; title 43 section 1752.

§ 1605. Protection, use and management of renewable resources on non-Federal lands; utilization of Assessment, surveys and Program by Secretary of Agriculture to assist States, etc.

The Secretary of Agriculture may utilize the Assessment, resource surveys, and Program prepared pursuant to this subchapter to assist States and other organizations in proposing the planning for the protection, use, and management of renewable resources on non-Federal land.

CODIFICATION

In text, "subchapter" was substituted for "chapter" in view of the designation of Pub. L. 95-307, June 30, 1978, 92 Stat. 353, known as the Forest and Rangeland Renewable Resources Research Act of 1978, and Pub. L. 95-306, June 30, 1978, 92 Stat. 349, known as the Renewable Resources Extension Act of 1978, as subchapters II and III of this chapter, respectively, and the subsequent redesignation of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, known as the Forest and Rangeland Renewable Resources Planning Act of 1974, as subchapter I of this chapter.

[1] So in original. Probably should be "long-term".

§ 1606. Budget requests by President for Forest Service activities

(a) Transmittal to Speaker of House and President of Senate of Assessment, Program and Statement of Policy used in framing requests; time for transmittal; implementation by President of programs established under Statement of Policy unless Statement subsequently disapproved by Congress; time for disapproval

On the date Congress first convenes in 1976 and thereafter following each updating of the Assessment and the Program, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, when Congress convenes, the Assessment as set forth in section 1601 of this title and the Program as set forth in section 1602 of this title, together with a detailed Statement of Policy intended to be used in framing budget requests by that Administration for Forest Service activities for the five- or ten-year program period beginning during the term of such Congress for such further action deemed appropriate by the Congress. Following the transmission of such Assessment, Program, and Statement of Policy, the President shall, subject to other actions of the Congress, carry out programs already established by law in accordance with such Statement of Policy or any subsequent amendment or modification thereof approved by the Congress, unless, before the end of the first period of ninety calendar days of continuous session of Congress after the date on which the President of the Senate and the Speaker of the House are recipients of the transmission of such Assessment, Program, and Statement of Policy, either House adopts a resolution reported by the appropriate committee of jurisdiction disapproving the Statement of Policy. For the purpose of this subsection, the continuity of a session shall be deemed to be broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the ninety-day period. Notwithstanding any other provision of this subchapter, Congress may revise or modify the Statement of Policy transmitted by the President, and the revised or modified Statement of Policy shall be used in framing budget requests.

[*See main edition for text of* (*b*)]

(c) Annual evaluation report to Congress of Program components; time of submission; status of major research programs; application of findings; status, etc., of cooperative forestry assistance programs and activities

For the purpose of providing information that will aid Congress in its oversight responsibilities and improve the accountability of agency expenditures and activities, the Secretary of Agriculture shall prepare an annual report which evaluates the component elements of the Program required to be prepared by section 1602 of this title which shall be furnished to the Congress at the time of submission of the annual fiscal budget commencing with the third fiscal year after August 17, 1974. With regard to the research component of the

program, the report shall include, but not be limited to, a description of the status of major research programs, significant findings, and how these findings will be applied in National Forest System management and in cooperative State and private Forest Service programs. With regard to the cooperative forestry assistance part of the Program, the report shall include, but not be limited to, a description of the status, accomplishments, needs, and work backlogs for the programs and activities conducted under the Cooperative Forestry Assistance Act of 1978 [16 U.S.C. 2101 et seq.].

[*See main edition for text of (d) to (f)*]

(As amended Pub. L. 95-313, § 12, July 1, 1978, 92 Stat. 374.)

REFERENCES IN TEXT

The Cooperative Forestry Assistance Act of 1978, referred to in subsec. (c), is Pub. L. 95-313, July 1, 1978, 92 Stat. 365, which is classified principally to chapter 41 (section 2101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2101 of this title and Tables.

CODIFICATION

In subsec. (a), "subchapter" was substituted for "chapter" in view of the designation of Pub. L. 95-307, June 30, 1978, 92 Stat. 353, known as the Forest and Rangeland Renewable Resources Research Act of 1978, and Pub. L. 95-306, June 30, 1978, 92 Stat. 349, known as the Renewable Resources Extension Act of 1978, as subchapters II and III of this chapter, respectively, and the subsequent redesignation of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, known as the Forest and Rangeland Renewable Resources Planning Act of 1974, as subchapter I of this chapter.

AMENDMENTS

1978—Subsec. (c). Pub. L. 95-313 added provisions relating to inclusion in report of findings involving cooperative State and private Forest Service programs, and provisions relating to scope of report descriptions involving programs and activities under the Cooperative Forestry Assistance Act of 1978.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-313 effective Oct. 1, 1978, see section 14 of Pub. L. 95-313, set out as an Effective Date note under section 2101 of this title.

STATEMENT OF PURPOSES OF AMENDMENT BY COOPERATIVE FORESTRY ASSISTANCE ACT OF 1978

Section 12 of Pub. L. 95-313 provided in part that the amendment of subsec. (c) of this section by Pub. L. 95-313 is to insure that Congress has adequate information to implement its oversight responsibilities and to provide accountability for expenditures and activities under the Cooperative Forestry Assistance Act of 1978. See Short Title note set out under section 2101 of this title for distribution of the Cooperative Forestry Assistance Act of 1978 in the Code.

§ 1609. National Forest System; Congressional declaration of constituent elements and purposes; lands etc., included within; return of lands to public domain; location of Forest Service offices

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 8401.

§ 1610. Implementation of provisions by Secretary of Agriculture; utilization of information and data of other organizations; avoidance of duplication of planning, etc., definition of "renewable resource"

In carrying out this subchapter, the Secretary of Agriculture shall utilize information and data available from other Federal, State, and private organizations and shall avoid duplication and overlap of resource assessment and program planning efforts of other Federal agencies. The term "renewable resources" shall be construed to involve those matters within the scope of responsibilities and authorities of the Forest Service on August 17, 1974 and on the date of enactment of any legislation amendatory or supplementary thereto.

CODIFICATION

In text, "subchapter" was substituted for "chapter" in view of the designation of Pub. L. 95-307, June 30, 1978, 92 Stat. 353, known as the Forest and Rangeland Renewable Resources Research Act of 1978, and Pub. L. 95-306, June 30, 1978, 92 Stat. 349, known as the Renewable Resources Extension Act of 1978, as subchapters II and III of this chapter, respectively, and the subsequent redesignation of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, known as the Forest and Rangeland Renewable Resources Planning Act of 1974, as subchapter I of this chapter.

§ 1612. Public participation and advisory boards; functions; membership

(a) In exercising his authorities under this subchapter and other laws applicable to the Forest Service, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards, criteria, and guidelines applicable to Forest Service programs.

[*See main edition for text of (b)*]

CODIFICATION

In subsec. (a), "subchapter" was substituted for "chapter" in view of the designation of Pub. L. 95-307, June 30, 1978, 92 Stat. 353, known as the Forest and Rangeland Renewable Resources Research Act of 1978, and Pub. L. 95-306, June 30, 1978, 92 Stat. 349, known as the Renewable Resources Extension Act of 1978, as subchapters II and III of this chapter, respectively, and the subsequent redesignation of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, known as the Forest and Rangeland Renewable Resources Planning Act of 1974, as subchapter I of this chapter.

§ 1613. Promulgation of regulations

The Secretary of Agriculture shall prescribe such regulations as he determines necessary and desirable to carry out the provisions of this subchapter.

CODIFICATION

In text, "subchapter" was substituted for "chapter" in view of the designation of Pub. L. 95-307, June 30, 1978, 92 Stat. 353, known as the Forest and Rangeland Renewable Resources Research Act of 1978, and Pub. L. 95-306, June 30, 1978, 92 Stat. 349, known as the Renewable Resources Extension Act of 1978, as subchapters II and III of this chapter, respectively, and

the subsequent redesignation of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, known as the Forest and Rangeland Renewable Resources Planning Act of 1974, as subchapter I of this chapter.

§ 1614. Severability of provisions

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of this subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

CODIFICATION

In text, "subchapter" was substituted for "chapter" in view of the designation of Pub. L. 95-307, June 30, 1978, 92 Stat. 353, known as the Forest and Rangeland Renewable Resources Research Act of 1978, and Pub. L. 95-306, June 30, 1978, 92 Stat. 349, known as the Renewable Resources Extension Act of 1978, as subchapters II and III of this chapter, respectively, and the subsequent redesignation of Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, known as the Forest and Rangeland Renewable Resources Planning Act of 1974, as subchapter I of this chapter.

SUBCHAPTER II—RESEARCH [NEW]

§ 1641. Congressional statement of findings; application of provisions with planning provisions

(a) Congress finds that scientific discoveries and technological advances must be made and applied to support the protection, management, and utilization of the Nation's renewable resources. It is the purpose of this subchapter to authorize the Secretary of Agriculture (hereinafter in this subchapter referred to as the "Secretary") to implement a comprehensive program of forest and rangeland renewable resources research and dissemination of the findings of such research.

(b) This subchapter shall be deemed to complement the policies and direction set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.].

(Pub. L. 95-307, § 2, June 30, 1978, 92 Stat. 353.)

REFERENCES IN TEXT

This subchapter, referred to in text, in the original read "this Act", meaning Pub. L. 95-307, June 2, 1978, 92 Stat. 353, known as the Forest and Rangeland Renewable Resources Research Act of 1978, which enacted this subchapter, repealed sections 581 to 581i of this title, and enacted provisions set out as a note under section 1641 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in text, is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

SHORT TITLE

For Short Title of Pub. L. 95-307, June 30, 1978, 92 Stat. 353, as the Forest and Rangeland Renewable Resources Research Act of 1978, see Short Title of 1978 Amendment note set out under section 1600 of this title.

EFFECTIVE DATE

Section 9 of Pub. L. 95-307 provided that: "The provisions of this Act [enacting this subchapter, repealing sections 581 to 581i of this title, and enacting provisions set out as a note under section 1600 of this title] shall become effective October 1, 1978."

§ 1642. Authorization to conduct, support, and cooperate in investigations, experiments, tests, and other activities; scope and purposes of activities; development of periodic Renewable Resource Assessment through survey and analysis of conditions

(a) The Secretary is authorized to conduct, support, and cooperate in investigations, experiments, tests, and other activities the Secretary deems necessary to obtain, analyze, develop, demonstrate, and disseminate scientific information about protecting, managing, and utilizing forest and rangeland renewable resources in rural, suburban, and urban areas. The activities conducted, supported, or cooperated in by the Secretary under this subchapter shall include, but not be limited to, the five major areas of renewable resource research identified in paragraphs (1) through (5) of this subsection.

(1) Renewable resource management research shall include, as appropriate, research activities related to managing, reproducing, planting, and growing vegetation on forests and rangelands for timber, forage, water, fish and wildlife, esthetics, recreation, wilderness, and other purposes; determining the role of forest and rangeland management in the productive use of forests and rangelands, in diversified agriculture, and in mining, transportation, and other industries; and developing alternatives for the management of forests and rangelands that will make possible the most effective use of their multiple products and services.

(2) Renewable resource environmental research shall include, as appropriate, research activities related to understanding and managing surface and subsurface water flow, preventing and controlling erosion, and restoring damaged or disturbed soils on forest and rangeland watersheds; maintaining and improving wildlife and fish habitats; managing vegetation to reduce air and water pollution, provide amenities, and for other purposes; and understanding, predicting, and modifying weather, climatic, and other environmental conditions that affect the protection and management of forests and rangelands.

(3) Renewable resource protection research shall include, as appropriate, research activities related to protecting vegetation and other forest and rangeland resources, including threatened and endangered flora and fauna, as well as wood and wood products in storage or use, from fires, insects, diseases, noxious plants, animals, air pollutants, and other agents through biological, chemical, and mechanical control methods and systems; and protecting people, natural resources, and property from fires in rural areas.

(4) Renewable resource utilization research shall include, as appropriate, research activities related to harvesting, transporting, processing, marketing, distributing, and utilizing

wood and other materials derived from forest and rangeland renewable resources; recycling and fully utilizing wood fiber; and testing forest products, including necessary fieldwork associated therewith.

(5) Renewable resource assessment research shall include, as appropriate, research activities related to developing and applying scientific knowledge and technology in support of the survey and analysis of forest and rangeland renewable resources described in subsection (b) of this section.

(b) To ensure the availability of adequate data and scientific information for development of the periodic Renewable Resource Assessment provided for in section 1601 of this title, the Secretary of Agriculture shall make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for renewable resources of the forests and rangelands of the United States and of the supplies of such renewable resources, including a determination of the present and potential productivity of the land, and of such other facts as may be necessary and useful in the determination of ways and means needed to balance the demand for and supply of these renewable resources, benefits, and uses in meeting the needs of the people of the United States. The Secretary shall conduct the survey and analysis under such plans as the Secretary may determine to be fair and equitable, and cooperate with appropriate officials of each State and, either through them or directly, with private or other entities.

(Pub. L. 95-307, § 3, June 30, 1978, 92 Stat. 353.)

§ 1643. Implementation of provisions

(a) Establishment and maintenance of research facilities; acquisition, expenditures, etc., for property

In implementing this subchapter, the Secretary is authorized to establish and maintain a system of experiment stations, research laboratories, experimental areas, and other forest and rangeland research facilities. The Secretary is authorized, with donated or appropriated funds, to acquire by lease, donation, purchase, exchange, or otherwise, land or interests in land within the United States needed to implement this subchapter, to make necessary expenditures to examine, appraise, and survey such property, and to do all things incident to perfecting title thereto in the United States.

(b) Acceptance, holding, and administration of gifts, donations, and bequests; use and investment of gifts, proceeds, etc.; funding requirements

In implementing this subchapter, the Secretary is authorized to accept, hold, and administer gifts, donations, and bequests of money, real property, or personal property from any source not otherwise prohibited by law and to use such gifts, donations, and bequests to (1) establish or operate any forest and rangeland research facility within the United States, or (2) perform any forest and rangeland renewable resource research activity authorized by this subchapter. Such gifts, donations, and bequests, or the proceeds thereof, and money appropriated for these purposes shall be deposited in the Treasury in a special fund. At the request of the Secretary, the Secretary of the Treasury may invest or reinvest any money in the fund that in the opinion of the Secretary is not needed for current operations. Such investments shall be in public debt securities with maturities suitable for the needs of the fund and bearing interest at prevailing market rates. There are hereby authorized to be expended from such fund such amounts as may be specified in annual appropriation Acts, which shall remain available until expended.

(c) Cooperation with Federal, State, and other governmental agencies, public and private agencies, etc.; funding requirements for contributions from cooperators

In implementing this subchapter, the Secretary may cooperate with Federal, State, and other governmental agencies, with public or private agencies, institutions, universities, and organizations, and with businesses and individuals in the United States and in other countries. The Secretary may receive money and other contributions from cooperators under such conditions as the Secretary may prescribe. Any money contributions received under this subsection shall be credited to the applicable appropriation or fund to be used for the same purposes and shall remain available until expended as the Secretary may direct for use in conducting research activities authorized by this subchapter and in making refunds to contributors.

(Pub. L. 95-307, § 4(a)-(c), June 30, 1978, 92 Stat. 354.)

§ 1644. Competitive grants; scope and purposes; prerequisites

In addition to any grants made under other laws, the Secretary is authorized to make competitive grants that will further research activities authorized by this subchapter to Federal, State, and other governmental agencies, public or private agencies, institutions, universities, and organizations, and businesses and individuals in the United States. In making these grants, the Secretary shall emphasize basic and applied research activities that are important to achieving the purposes of this subchapter, and shall obtain, through review by qualified scientists and other methods, participation in research activities by scientists throughout the United States who have expertise in matters related to forest and rangeland renewable resources. Grants under this section shall be made at the discretion of the Secretary under whatever conditions the Secretary may prescribe, after publicly soliciting research proposals, allowing sufficient time for submission of the proposals, and considering qualitative, quantitative, financial, administrative, and other factors that the Secretary deems important in judging, comparing, and accepting the proposals. The Secretary may reject any or all proposals received under this section if the Secretary determines that it is in the public interest to do so.

(Pub. L. 95-307, § 5, June 30, 1978, 92 Stat. 355.)

§ 1645. General provisions

(a) Availability of funds to cooperators and grantees

The Secretary may make funds available to cooperators and grantees under this subchapter without regard to the provisions of section 529 of title 31, which prohibits advances of public money.

(b) Coordination of cooperative aid and grants with other aid and grant authorities

To avoid duplication, the Secretary shall coordinate cooperative aid and grants under this subchapter with cooperative aid and grants the Secretary makes under any other authority.

(c) Dissemination of knowledge and technology developed from research activities; cooperation with specified entities

The Secretary shall use the authorities and means available to the Secretary to disseminate the knowledge and technology developed from research activities conducted under or supported by this subchapter. In meeting this responsibility, the Secretary shall cooperate, as the Secretary deems appropriate, with the entities identified in subsection (d)(3) of this section and with others.

(d) Additional implementative authorities

In implementing this subchapter, the Secretary, as the Secretary deems appropriate and practical, shall—

(1) use, and encourage cooperators and grantees to use, the best available scientific skills from a variety of disciplines within and outside the fields of agriculture and forestry;

(2) seek, and encourage cooperators and grantees to seek, a proper mixture of short-term and long-term research and a proper mixture of basic and applied research;

(3) avoid unnecessary duplication and coordinate activities under this section among agencies of the Department of Agriculture and with other affected Federal departments and agencies, State agricultural experiment stations, State extension services, State foresters or equivalent State officials, forestry schools, and private research organizations; and

(4) encourage the development, employment, retention, and exchange of qualified scientists and other specialists through postgraduate, postdoctoral, and other training, national and international exchange of scientists, and other incentives and programs to improve the quality of forest and rangeland renewable resources research.

(e) Construction of statutory provisions

This subchapter shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary except as specifically cited in this subchapter.

(f) Definitions

For the purposes of this subchapter, the terms "United States" and "State" shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the territories and possessions of the United States.

(Pub. L. 95-307, § 6, June 30, 1978, 92 Stat. 355.)

§ 1646. Authorization of appropriations

There are authorized to be appropriated annually such sums as may be needed to implement this subchapter. Funds appropriated under this subchapter shall remain available until expended.

(Pub. L. 95-307, § 7, June 30, 1978, 92 Stat. 356.)

§ 1647. Other Federal programs

(a) Repeal of statutory authorities relating to investigation, experiments, and tests in reforestation and forest products

The Act of May 22, 1928, known as the McSweeney-McNary Act (45 Stat. 699-702, as amended; 16 U.S.C. 581, 581a, 581b-581i), is hereby repealed.

(b) Force and effect of cooperative and other agreements under repealed statutory authorities relating to investigation, etc., in reforestation and forest products

Contracts and cooperative and other agreements under the McSweeney-McNary Act shall remain in effect until revoked or amended by their own terms or under other provisions of law.

(c) Issuance of rules and regulations for implementation of provisions and coordination with agricultural research, extension, and teaching provisions

The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to implement the provisions of this subchapter and to coordinate this subchapter with title XIV of the Food and Agriculture Act of 1977 [7 U.S.C. 3101 et seq.].

(d) Availability of funds appropriated under repealed statutory authorities relating to investigation, etc., in reforestation and forest products

Funds appropriated under the authority of the McSweeney-McNary Act shall be available for expenditure for the programs authorized under this subchapter.

(Pub. L. 95-307, § 8, June 30, 1978, 92 Stat. 356.)

REFERENCES IN TEXT

The Food and Agriculture Act of 1977, referred to in subsec. (c), is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XIV of the Food and Agriculture Act of 1977, known as the "National Agricultural Research, Extension, and Teaching Policy Act of 1977", is classified principally to chapter 64 (§ 3101 et seq.) of Title 7, Agriculture. For complete classification of this title to the Code, see Short Title note set out under section 3101 of Title 7 and Tables.

SUBCHAPTER III—EXTENSION PROGRAMS [NEW]

§ 1671. Congressional statement of findings

Congress finds that—

(1) the extension program of the Department of Agriculture and the extension activities of each State provide useful and productive educational programs for private forest

and range landowners and processors and consumptive and nonconsumptive users of forest and rangeland renewable resources, and these educational programs complement research and assistance programs conducted by the Department of Agriculture;

(2) to meet national goals, it is essential that all forest and rangeland renewable resources (hereinafter in this subchapter referred to as "renewable resources"), including fish and wildlife, forage, outdoor recreation opportunities, timber, and water, be fully considered in designing educational programs for landowners, processors, and users;

(3) more efficient utilization and marketing of renewable resources extend available supplies of such resources, provide products to consumers at prices less than they would otherwise be, and promote reasonable returns on the investments of landowners, processors, and users;

(4) trees and forests in urban areas improve the esthetic quality, reduce noise, filter impurities from the air and add oxygen to it, save energy by moderating temperature extremes, control wind and water erosion, and provide habitat for wildlife; and

(5) trees and shrubs used as shelterbelts protect farm lands from wind and water erosion, promote moisture accumulation in the soil, and provide habitat for wildlife.

(Pub. L. 95-306, § 2, June 30, 1978, 92 Stat. 349.)

EFFECTIVE AND TERMINATION DATES

Section 8 of Pub. L. 95-306 provided that: "The provisions of this Act [enacting this subchapter and provision set out as a note under section 1600 of this title] shall be effective for the period beginning October 1, 1978, and ending September 30, 1988".

SHORT TITLE

For Short Title of Renewable Resources Extension Act of 1978, see Short Title of 1978 Amendment note set out under section 1600 of this title.

§ 1672. General program authorization

(a) Types of programs; preconditions and cooperation with State program directors, etc.

The Secretary of Agriculture (hereinafter in this subchapter referred to as the "Secretary"), under conditions the Secretary may prescribe and in cooperation with the State directors of cooperative extension service programs and eligible colleges and universities, shall—

(1) provide educational programs that enable individuals to recognize, analyze, and resolve problems dealing with renewable resources, including forest- and range-based outdoor recreation opportunities, trees and forests in urban areas, and trees and shrubs in shelterbelts;

(2) use educational programs to disseminate the results of research on renewable resources;

(3) conduct educational programs that transfer the best available technology to those involved in the management and protection of forests and rangelands and the processing and use of their associated renewable resources;

(4) develop and implement educational programs that give special attention to the educational needs of small, private nonindustrial forest landowners;

(5) develop and implement educational programs in range and fish and wildlife management;

(6) assist in providing continuing education programs for professionally trained individuals in fish and wildlife, forest, range, and watershed management and related fields;

(7) help forest and range landowners in securing technical and financial assistance to bring appropriate expertise to bear on their problems; and

(8) help identify areas of needed research regarding renewable resources.

(b) Definition

As used in this subchapter, the term "eligible colleges and universities" means colleges and universities eligible to be supported and maintained, in whole or in part, with funds made available under the provisions of the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307, 308), and the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326, 328), including Tuskegee Institute, and colleges and universities eligible for assistance under the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7).

(c) Use of appropriate educational methods required; scope of methods

In implementing this section, all appropriate educational methods may be used, including, but not limited to, meetings, short courses, workshops, tours, demonstrations, publications, news releases, and radio and television programs.

(Pub. L. 95-306, § 3, June 30, 1978, 92 Stat. 349.)

REFERENCES IN TEXT

The Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307, 308), referred to in subsec. (b), is act July 2, 1862, ch. 130, 12 Stat. 503, as amended, popularly known as the Morrill Act and also as the First Morrill Act, which is classified generally to subchapter I (§ 301 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 301 of Title 7 and Tables.

The Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326, 328), referred to in subsec. (b), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

The Act of October 10, 1962 (76 Stat. 806-807, as amended), referred to in subsec. (b), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables.

§ 1673. State programs

(a) Development by State program director, etc., of comprehensive and coordinated program by mutual agreement; consultations; review procedure

The State director of cooperative extension programs (hereinafter in this subchapter re-

ferred to as the "State director") and the administrative heads of extension for eligible colleges and universities in each State shall jointly develop, by mutual agreement, a single comprehensive and coordinated renewable resources extension program in which the role of each eligible college and university is well-defined. In meeting this responsibility, the State director and the administrative heads of extension for eligible colleges and universities shall consult and seek agreement with the administrative technical representatives and the forestry representatives provided for by the Secretary in implementation of the Act of October 10, 1962 (76 Stat. 806-807, as amended; 16 U.S.C. 582a, 582a-1—582a-7), in the State. Each State's renewable resources extension program shall be submitted to the Secretary annually. The National Agricultural Research and Extension Users Advisory Board established under section 3123 of title 7 shall review and make recommendations to the Secretary pertaining to programs conducted under this subchapter.

(b) Encouragement by State director, etc., of cooperation between county and State extension staffs and appropriate Federal and State agencies and organizations

The State director and the administrative heads of extension for eligible colleges and universities in each State shall encourage close cooperation between extension staffs at the county and State levels, and State and Federal research organizations dealing with renewable resources, State and Federal agencies that manage forests and rangelands and their associated renewable resources, State and Federal agencies that have responsibilities associated with the processing or use of renewable resources, and other agencies or organizations the State director and administrative heads of extension deem appropriate.

(c) Administration and coordination of program by State director; exception

Each State renewable resources extension program shall be administered and coordinated by the State director, except that, in States having colleges eligible to receive funds under the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326, 328), including Tuskegee Institute, the State renewable resources extension program shall be administered by the State director and the administrative head or heads of extension for the college or colleges eligible to receive such funds.

(d) Appointment and use of advisory committees by State director, etc.; composition of advisory committees

In meeting the provisions of this section, each State director and administrative heads of extension for eligible colleges and universities shall appoint and use one or more advisory committees comprised of forest and range landowners, professionally trained individuals in fish and wildlife, forest, range, and watershed management, and related fields, as appropriate, and other suitable persons.

(e) Definition

For the purposes of this subchapter, the term "State" means any one of the fifty States, the Commonwealth of Puerto Rico, Guam, the District of Columbia, and the Virgin Islands of the United States.

(Pub. L. 95-306, § 4, June 30, 1978, 92 Stat. 350.)

REFERENCES IN TEXT

The Act of October 10, 1962 (76 Stat. 806-807, as amended), referred to in subsec. (a), is Pub. L. 87-788, Oct. 10, 1962, 76 Stat. 806, as amended, which is classified generally to subchapter III (§ 582a et seq.) of chapter 3 of this title. For complete classification of this Act to the Code, see Tables.

The Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 U.S.C. 321-326, 328), referred to in subsec. (c), is act Aug. 30, 1890, ch. 841, 26 Stat. 417, as amended, popularly known as the Agricultural College Act of 1890 and also as the Second Morrill Act, which is classified generally to subchapter II (§ 321 et seq.) of chapter 13 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 321 of Title 7 and Tables.

§ 1674. Renewable Resources Extension Program plan

(a) Preparation and submission to Congress; purposes; contents

The Secretary shall prepare a five-year plan for implementing this subchapter, which is to be called the "Renewable Resources Extension Program" and shall submit such plan to Congress no later than the last day of the first half of the fiscal year ending September 30, 1980, and the last day of the first half of each fifth fiscal year thereafter. The Renewable Resources Extension Program shall provide national emphasis and direction as well as guidance to State directors and administrative heads of extension for eligible colleges and universities in the development of their respective State renewable resources extension programs, which are to be appropriate in terms of the conditions, needs, and opportunities in each State. The Renewable Resources Extension Program shall contain, but not be limited to, brief outlines of general extension programs for fish and wildlife management (for both game and nongame species), range management, timber management (including brief outlines of general extension programs for timber utilization, timber harvesting, timber marketing, wood utilization, and wood products marketing), and watershed management (giving special attention to water quality protection), as well as brief outlines of general extension programs for recognition and enhancement of forest- and range-based outdoor recreation opportunities, for planting and management of trees and forests in urban areas, and for planting and management of trees and shrubs in shelterbelts.

(b) Considerations governing preparation

In preparing the Renewable Resources Extension Program, the Secretary shall take into account the respective capabilities of private forests and rangelands for yielding renewable resources and the relative needs for such resources identified in the periodic Renewable Resource Assessment provided for in section 1601 of this title and the periodic appraisal of land and water resources provided for in section 2004 of this title.

(c) Annual report to Congress

To provide information that will aid Congress in its oversight responsibilities and to provide

accountability in implementing this subchapter, the Secretary shall prepare an annual report, which shall be furnished to Congress at the time of submission of each annual fiscal budget, beginning with the annual fiscal budget for the fiscal year ending September 30, 1981. The annual report shall set forth accomplishments of the Renewable Resources Extension Program, its strengths and weaknesses, recommendations for improvement, and costs of program administration, each with respect to the preceding fiscal year.

(Pub. L. 95-306, § 5, June 30, 1978, 92 Stat. 351.)

§ 1675. Authorization of appropriations; criteria for eligibility of States for funds

There are authorized to be appropriated to implement this subchapter $15,000,000 for the fiscal year ending September 30, 1979, and $15,000,000 for each of the next nine fiscal years. Generally, States shall be eligible for funds appropriated under this subchapter according to the respective capabilities of their private forests and rangelands for yielding renewable resources and relative needs for such resources identified in the periodic Renewable Resource Assessment provided for in section 1601 of this title and the periodic appraisal of land and water resources provided for in section 2004 of this title.

(Pub. L. 95-306, § 6, June 30, 1978, 92 Stat. 352.)

§ 1676. Issuance of rules and regulations for implementation of provisions and coordination with agricultural, research, extension, and teaching provisions

The Secretary is authorized to issue such rules and regulations as the Secretary deems necessary to implement the provisions of this subchapter and to coordinate this subchapter with title XIV of the Food and Agriculture Act of 1977 [7 U.S.C. 3101 et seq.].

(Pub. L. 95-306, § 7, June 30, 1978, 92 Stat. 352.)

REFERENCES IN TEXT

The Food and Agriculture Act of 1977, referred to in text, is Pub. L. 95-113, Sept. 29, 1977, 91 Stat. 913, as amended. Title XIV of the Food and Agriculture Act of 1977, known as the "National Agricultural Research, Extension, and Teaching Policy Act of 1977", is classified principally to chapter 64 (§ 3101 et seq.) of Title 7, Agriculture. For complete classification of this title to the Code, see Short Title note set out under section 3101 of Title 7 and Tables.

CHAPTER 38—FISHERY CONSERVATION AND MANAGEMENT

SUBCHAPTER III—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

Sec.
1826. Transitional provisions [New].
(a) Definition.
(b) Action by Councils.
(c) Permits.
(d) Permit fees.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 917 of this title; title 22 section 1980; title 33 section 1321.

SUBCHAPTER I—GENERALLY

§ 1801. Findings, purposes and policy

(a) Findings

The Congress finds and declares the following:

[See main edition for text of (1) to (6)]

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(b) Purposes

It is therefore declared to be the purposes of the Congress in this chapter—

[See main edition for text of (1) to (5)]

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska.

[See main edition for text of (c)]

(As amended Pub. L. 95-354, § 2, Aug. 28, 1978, 92 Stat. 519.)

AMENDMENTS

1978—Subsec. (a)(7). Pub. L. 95-354, § 2(a), substituted "the United States fishing industry" for "United States fishermen".

Subsec. (b)(6). Pub. L. 95-354, § 2(b), added requirement for development by the United States fishing industry.

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95-6, § 1, Feb. 21, 1977, 91 Stat. 14, provided: "That this joint resolution [which enacted section 1826 of this title, repealed sections 981 to 991 of this title, and enacted provisions set out as notes under sections 981 and 1823 of this title] may be cited as the 'Fishery Conservation Zone Transition Act'."

§ 1802. Definitions

As used in this chapter, unless the context otherwise requires—

[See main edition for text of (1) to (24)]

(25) The term "United States fish processors" means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

(26) The term "United States harvested fish" means fish caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan prepared under subchapter IV of this chapter or a preliminary fishery management plan prepared under section 1821(h) of this title has been implemented.

(27) The term "vessel of the United States" means any vessel documented under the laws of the United States or registered under the laws of any State.

(As amended Pub. L. 95-354, § 3, Aug. 28, 1978, 92 Stat. 519.)

AMENDMENTS

1978—Par. (25). Pub. L. 95-354 added par. (25). Former par. (25) was redesignated as par. (27).

Par. (26). Pub. L. 95-354 added par. (26).

Par. (27). Pub. L. 95-354 redesignated former par. (25) as par. (27).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 917a of this title; title 22 sections 1971, 1980.

SUBCHAPTER II—FISHERY MANAGEMENT AUTHORITY OF THE UNITED STATES

§ 1811. Fishery conservation zone

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1021, 1802 of this title.

SUBCHAPTER III—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

§ 1821. Foreign fishing

(a) In general

After February 28, 1977, no foreign fishing is authorized within the fishery conservation zone, or for anadromous species or Continental Shelf fishery resources beyond the fishery conservation zone, unless such foreign fishing—

[*See main edition for text of (1)*]

(2) is not prohibited by subsection (g) of this section; and

[*See main edition for text of (3); (b)*]

(c) Governing international fishery agreements

Foreign fishing described in subsection (a) of this section may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 1823 of this title. Any such international fishery agreement shall hereafter in this chapter be referred to as a "governing international fishery agreement". Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this chapter. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

[*See main edition for text of (1) and (2)*]

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, harvest an amount of fish which exceeds such nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e) of this section.

[*See main edition for text of (4); (d) and (e)*]

(f) Foreign allocation report

The Secretary of the Treasury, in cooperation with the Secretary and the Secretary of State, shall prepare and submit a report to the Congress and the President, not later than July 1 of each year, setting forth—

(1) a list of species of all allocations made to foreign nations pursuant to subsection (e) of this section and all permits issued pursuant to section 1824(b)(6)(B) of this title; and

(2) all tariff and nontariff trade barriers imposed by such nations on the importation of such species from the United States.

(g) Reciprocity

Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(h) Preliminary fishery management plans

The Secretary, when notified by the Secretary of State that any foreign nation has submitted an application under section 1824(b) of this title shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to subchapter IV of this chapter, before March 1, 1977. To the extent practicable, each such plan—

(1) shall contain a preliminary description of the fishery and a preliminary determination as to—

(A) the optimum yield from such fishery;

(B) when appropriate, the capacity and extent to which United States fish processors will process that portion of such optimum yield that will be harvested by vessels of the United States; and

(C) the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 1853(a)(5) of this title; and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this chapter, and other applicable law, and

(C) are described in section 1853(b)(2), (3), (4), (5), and (7) of this title.

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to subchapter IV of this chapter, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, also prepare and promulgate interim

regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 1855 of this title.

(As amended Pub. L. 95-354, § 4(1)-(4), Aug. 28, 1978, 92 Stat. 519, 520.)

AMENDMENTS

1978—Subsec. (a)(2). Pub. L. 95-354, § 4(1), substituted "(g)" for "(f)".

Subsec. (c)(3). Pub. L. 95-354, § 4(2), substituted "harvest an amount of fish which exceeds" for "exceed".

Subsec. (f). Pub. L. 95-354, § 4(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 95-354, § 4(3), redesignated former subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 95-354, § 4(3),(4), redesignated former subsec. (g) as (h) and, in subsec. (h)(1), as so redesignated, set out existing provisions as cls. (A) and (C) and added cl. (B).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1802, 1822, 1824, 1825, 1857, 1861 of this title.

§ 1823. Congressional oversight of governing international fishery agreements

CONGRESSIONAL APPROVAL OF CERTAIN GOVERNING INTERNATIONAL FISHERY AGREEMENTS

Pub. L. 95-6, § 2, Feb. 21, 1977, 91 Stat. 15, as amended by Pub. L. 95-8, § 1, Mar. 3, 1977, 91 Stat. 18; Pub. L. 95-219, § 1, Dec. 28, 1977, 91 Stat. 1613, provided that:

"Notwithstanding section 203 of the Fishery Conservation and Management Act of 1976 [this section], the governing international fishery agreement between the Government of the United States of America and—

"(1) the Government of the People's Republic of Bulgaria Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 14, 1974;

"(2) the Government of the Socialist Republic of Romania Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

"(3) the Government of the Republic of China Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

"(4) the Government of the German Democratic Republic Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

"(5) the Government of the Union of Soviet Socialist Republics Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated January 10, 1977;

"(6) the Government of the Polish People's Republic Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated September 16, 1976;

"(7) the European Economic Community Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated February 21, 1977;

"(8) the Government of Japan Concerning Fisheries Off the Coasts of the United States (for 1977), as contained in the message to Congress from the President of the United States dated February 21, 1977;

"(9) the Government of the Republic of Korea Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated February 21, 1977;

"(10) the Government of Spain Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated February 21, 1977; and

"(11) the Government of Mexico Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated October 7, 1977;

is hereby approved by the Congress as a governing international fishery agreement for purposes of the Fishery Conservation and Management Act of 1976 [section 1801 et seq. of this title]. Each such agreement referred to in paragraphs (1) through (6) shall enter into force and effect with respect to the United States on the date of the enactment of this joint resolution [Feb. 21, 1977], and each such agreement referred to in paragraphs (7) through (11) shall enter into force and effect with respect to the United States on February 27, 1977."

Pub. L. 95-219, § 2, Dec. 28, 1977, 91 Stat. 1613, provided that: "The amendments made by the first section of this Act [adding par. (11) and amending provisions following par. (11)] shall take effect February 27, 1977."

Pub. L. 95-8, § 2, Mar. 3, 1977, 91 Stat. 18, provided that: "The amendments made by the first section of this Act [adding pars. (7) to (10) and amending provisions following par. (10)] shall take effect February 27, 1977."

RECIPROCAL FISHERIES AGREEMENT BETWEEN UNITED STATES AND CANADA

Pub. L. 95-6, § 5, as added Pub. L. 95-73, July 27, 1977, 91 Stat. 283, and amended Pub. L. 95-314, July 1, 1978, 92 Stat. 376, provided that:

"(a) CONGRESSIONAL APPROVAL.—The Congress hereby approves the Reciprocal Fisheries Agreement for 1978 between the Government of the United States and the Government of Canada (hereinafter in this section referred to as the 'Agreement') as contained in the message to Congress from the President of the United States dated May 1, 1978. The Agreement shall be in force and effect with respect to the United States from January 1, 1978, until such later date in 1978 as may be determined pursuant to the terms of the Agreement.

"(b) APPLICATION.—During the period when the Agreement is in force and effect with respect to the United States—

"(1) vessels and nationals of Canada may fish within the fishery conservation zone, or for anadromous species and Continental Shelf fishery resources beyond such zone, but only pursuant to, and in accordance with, the provisions of the Agreement; and

"(2) title II of the Fishery Conservation and Management Act of 1976 [this subchapter] (relating to foreign fishing and international fishery agreements) and section 307 of such Act of 1976 [section 1857 of this title] (relating to prohibited acts) shall not apply with respect to fishing within the fishery conservation zone, or for anadromous species and Continental Shelf fishery resources beyond such zone, by vessels and nationals of Canada which is pursuant to, and in accordance with the provisions of the Agreement.

"(c) FISHING STATISTICS.—(1) Any person who—

"(A) owns or operates any fishing vessel which—

"(i) is a vessel of the United States, and

"(ii) engages in fishing to which the Agreement applies; or

"(B) directly or indirectly receives, or may receive, fish to which the Agreement applies in the course of a commercial activity in quantities determined by the Secretary to be sufficient to assist in the carrying out of this paragraph.

shall submit to the Secretary such statistics (including, but not limited to, catch data) regarding such fishing or such receipt of fish as are necessary to fulfill the obligations of the United States under article XIII of the Agreement. The Secretary, after consultation with the Secretary of State, shall issue such regulations as are necessary and appropriate to carry out the purposes of this paragraph. Section 303(d) of the Fishery Conservation and Management Act of 1976 [section 1853(d) of this title] (relating to the confidentiality of statistics) shall apply with respect to all statistics submitted under this paragraph.

"(2) Any violation of paragraph (1), or of any regulation issued pursuant to paragraph (1), by any person shall be deemed to be an act prohibited by section 307 of the Fishery Conservation and Management Act of 1976 [section 1857 of this title]. Any person who commits any such violation shall be liable to the United States for a civil penalty as provided for in section 308 of such Act of 1976 [section 1858 of this title]. Sections 309 [section 1859 of this title] (relating to criminal offenses) and 310 [section 1860 of this title] (relating to civil forfeiture) of such Act of 1976 shall not apply with respect to any such violation.

"(d) DEFINITIONS—As used in this section, the terms 'anadromous species', 'Continental Shelf fishery resources', 'fishery conservation zone', 'fishing', 'fishing vessel', 'Secretary', and 'vessel of the United States' shall have the same respective meanings as are given to such terms in section 3 of the Fishery Conservation and Management Act of 1976 [section 1802 of this title]."

§ 1824. Permits for foreign fishing

[See main edition for text of (a)]

(b) Applications and permits under governing international fishery agreements

[See main edition for text of (1) and (2)]

(3) Contents

Any application made under this subsection shall specify—

[See main edition for text of (A) to (C)]

(D) the estimated amount of tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;

(E) the amount or tonnage of United States harvested fish, if any, which each such vessel proposes to receive at sea from vessels of the United States; and

(F) the ocean area in which, and the season or period during which, such fishing will be conducted;

and shall include any other pertinent information and material which the Secretary may require.

(4) Transmittal for action

Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish a notice of receipt of the application in the Federal Register. Any such notice shall summarize the contents of the applications from each nation included therein with respect to the matters described in paragraph (3) and shall be set forth under the name of each Council to which it will be transmitted for comment. The Secretary of State shall promptly transmit—

[See main edition for text of (A) to (C) and (5)]

(6) Approval

(A) After receipt of any application transmitted under paragraph (4)(A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary, after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve, subject to subparagraph (B), the application, if he determines that the fishing described in the application will meet the requirements of this chapter.

(B)(i) In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned.

(ii) The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.

(iii) In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.

(7) Establishment of conditions and restrictions

The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

[See main edition for text of (A) to (C)]

(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B), the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.

(E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.

(F) Any other condition and restriction related to fishery conservation and manage-

ment which the Secretary prescribes as necessary and appropriate.

[*See main edition for text of (8) to (12); (c)*]

(As amended Pub. L. 95-354, § 4(5)-(8), Aug. 28, 1978, 92 Stat. 520, 521.)

AMENDMENTS

1978—Subsec. (b)(3). Pub. L. 95-354, § 4(5), in subpar. (D) substituted provisions relating to estimation of amount of tonnage which will be caught, taken, or harvested, for provisions relating to the amount of fish or tonnage of catch contemplated for each vessel, added subpar. (E), and redesignated former subpar. (E) as (F).

Subsec. (b)(4). Pub. L. 95-354, § 4(6), substituted provisions relating to publication of the notice of receipt of the application in the Federal Register, for provisions relating to publication of the application in the Federal Register.

Subsec. (b)(6). Pub. L. 95-354, § 4(7), redesignated existing provisions as subpar. (A) and, as so redesignated, added reference to subpar. (B), and added subpar. (B).

Subsec. (b)(7). Pub. L. 95-354, § 4(8), added subpars. (D) and (E) and redesignated former subpar. (D) as (F).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1821, 1825, 1826, 1852, 1857 of this title; title 22 section 1980.

§ 1826. Transitional provisions

(a) Definition

For purposes of this section, the term "governing international fishery agreement" does not include any governing international fishery agreement other than a governing international fishery agreement approved by the Congress pursuant to section 2 of the Fishery Conservation Zone Transition Act, or pursuant to any amendment to such section 2 if the effective date of such amendment is not later than February 28, 1977.

(b) Action by Councils

Section 1824(b)(5) of this title shall not apply to any application submitted by a foreign nation pursuant to a governing international fishery agreement for permits authorizing fishing during 1977 by vessels of that nation within the fishery conservation zone or for anadromous species or Continental Shelf fishery resources beyond such zone, but each appropriate Council may prepare and submit comments to the Secretary on such application—

(1) if the application has been received by the Council on or before February 21, 1977, within 7 days after such date; or

(2) if the application is received by the Council from the Secretary of State after February 21, 1977, within 7 days after the date on which the Council receives the application.

The provisions of the Federal Advisory Committee Act shall not apply to the actions of any Council in preparing such comments.

(c) Permits

Until May 1, 1977, the requirement in section 1824(a) of this title that foreign fishing vessels have on board a valid permit issued under section 1824 of this title shall not apply in the case of any foreign fishing vessel for which a permit is issued under an application to which subsection (b) of this section applies. The failure of any such vessel to comply with such requirement before such date shall not be deemed to be a violation of section 1857(1)(A) of this title.

(d) Permit fees

Until May 1, 1977, the requirement in section 1824(b)(11) of this title, regarding the payment of applicable fees before foreign fishing permits are issued, may be waived by the Secretary with respect to permits to be issued under any application to which subsection (b) of this section applies if the Secretary is satisfied that the foreign nation which made the application will pay the applicable fees before such date. Any permit issued under the waiver provided by this subsection shall expire on May 1, 1977, if the Secretary does not receive on or before such date the applicable fees for the permit.

(Pub. L. 94-265, title II, § 206, as added Pub. L. 95-6, § 3(1), Feb. 21, 1977, 91 Stat. 15.)

REFERENCES IN TEXT

Section 2 of the Fishery Conservation Zone Transition Act, referred to in subsec. (a) is section 2 of Pub. L. 95-6, Feb. 21, 1977, 91 Stat. 14, as amended, which is set out as a note under section 1823 of this title.

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

SUBCHAPTER IV—NATIONAL FISHERY MANAGEMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1802, 1821 of this title.

§ 1852. Regional Fishery Management Councils

[*See main edition for text of (a) to (g)*]

(h) Functions

Each Council shall, in accordance with the provisions of this chapter—

[*See main edition for text of (1) to (4)*]

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 1853(a)(3) and (4) of this title with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery within its geographical area of authority; and

[*See main edition for text of (6)*]

(As amended Pub. L. 95-354, § 5(1), Aug. 28, 1978, 92 Stat. 521.)

AMENDMENTS

1978—Subsec. (h)(5). Pub. L. 95-354 added provisions relating to capacity and extent to which United States fish processors will process harvested fish.

§ 1853. Contents of fishery management plans

(a) Required provisions

Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

[*See main edition for text of (1) to (3)*]

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States; and

(5) specify the pertinent data which shall be submitted to the Secretary with respect to the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors.

[*See main edition for text of (b) to (d)*]

(As amended Pub. L. 95-354, § 5(2), (3), Aug. 28, 1978, 92 Stat. 521.)

AMENDMENTS

1978—Subsec. (a)(4). Pub. L. 95-354, § 5(2), added subpar. (C).

Subsec. (a)(5). Pub. L. 95-354, § 5(3), added provisions relating to estimated processing capacity of, and the actual processing utilized by, United States fish processors.

§ 1857. Prohibited acts

It is unlawful—

(1) for any person—

[*See main edition for text of (A) to (G)*]

(H) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage in fishing—

(A) within the boundaries of any State; or

(B) within the fishery conservation zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 1824(b) or (c) of this title; and

(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer directly or indirectly, or attempt to so transfer, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the fishery conservation zone, unless the foreign fishing vessel has been issued a permit under section 1824 of this title which authorizes the receipt by such vessel of United States harvested fish of the species concerned.

(As amended Pub. L. 95-354, § 5(4), Aug. 28, 1978, 92 Stat. 521.)

AMENDMENTS

1978—Par. (3). Pub. L. 95-354 added par. (3).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1821, 1824, 1826, 1858, 1859, 1860, 1861 of this title.

SUBCHAPTER V—MISCELLANEOUS PROVISIONS

§ 1882. Authorization of appropriations

There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this chapter, not to exceed the following sums:

[*See main edition for text of (1) to (4)*]

(5) $30,000,000 for the fiscal year ending September 30, 1979.

(As amended Pub. L. 95-354, § 1, Aug. 28, 1978, 92 Stat. 519.)

AMENDMENTS

1978—Par. (5). Pub. L. 95-354 added par. (5).

CHAPTER 40—SOIL AND WATER RESOURCES CONSERVATION [NEW]

Sec.

2001. Congressional findings.
2002. Definitions.
2003. Congressional policy and declaration of purpose.
(a) Responsiveness to long-term needs.
(b) Full utilization of cooperative arrangements with State agencies.
(c) Attainment of policies and purposes.
2004. Continuing appraisal of soil, water, and related resources.
(a) Data.
(b) Collection of data.
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(d) Completion dates.
2005. Soil and water conservation program.
(a) Program development.
(b) Completion dates.
2006. Reports to Congress.
(a) Appraisal, program, and detailed statement of policy at five-year intervals.
(b) Annual report of program and policy achievement.
(c) Annual report accompanying budget covering program effectiveness.
2007. Authorization of appropriations.
2008. Utilization of available information and data.
2009. Termination of program.

§ 2001. Congressional findings

The Congress finds that:

(1) There is a growing demand on the soil, water, and related resources of the Nation to meet present and future needs.

(2) The Congress, in its concern for sustained use of the resource base, created the Soil Conservation Service of the United States Department of Agriculture which possesses information, technical expertise, and a delivery system

for providing assistance to land users with respect to conservation and use of soils; plants; woodlands; watershed protection and flood prevention; the conservation, development, utilization, and disposal of water; animal husbandry; fish and wildlife management; recreation; community development; and related resource uses.

(3) Resource appraisal is basic to effective soil and water conservation. Since individual and governmental decisions concerning soil and water resources often transcend administrative boundaries and affect other programs and decisions, a coordinated appraisal and program framework are essential.

(Pub. L. 95-192, § 2, Nov. 18, 1977, 91 Stat. 1407.)

SHORT TITLE

Section 1 of Pub. L. 95-192 provided: "That this Act [which enacted this chapter] may be cited as the 'Soil and Water Resources Conservation Act of 1977'."

§ 2002. Definitions

As used in this chapter:

(1) The term "Secretary" means the Secretary of Agriculture.

(2) The term "soil, water, and related resources" means those resources which come within the scope of the programs administered and participated in by the Secretary of Agriculture through the Soil Conservation Service.

(3) The term "soil and water conservation program" means a set of guidelines for attaining the purposes of this chapter.

(Pub. L. 95-192, § 3, Nov. 18, 1977, 91 Stat. 1407.)

§ 2003. Congressional policy and declaration of purpose

(a) Responsiveness to long-term needs

In order to further the conservation of soil, water, and related resources, it is declared to be the policy of the United States and purpose of this chapter that the conduct of programs administered by the Secretary of Agriculture for the conservation of such resources shall be responsive to the long-term needs of the Nation, as determined under the provisions of this chapter.

(b) Full utilization of cooperative arrangements with State agencies

Recognizing that the arrangements under which the Federal Government cooperates with State soil and water conservation agencies and other appropriate State natural resource agencies such as those concerned with forestry and fish and wildlife and, through conservation districts, with other local units of government and land users, have effectively aided in the protection and improvement of the Nation's basic resources, including the restoration and maintenance of resources damaged by improper use, it is declared to be the policy of the United States that these arrangements and similar cooperative arrangements should be utilized to the fullest extent practicable to achieve the purpose of this chapter consistent with the roles and responsibilities of the non-Federal agencies, landowners and land users.

(c) Attainment of policies and purposes

The Secretary shall promote the attainment of the policies and purposes expressed in this chapter by—

(1) appraising on a continuing basis the soil, water, and related resources of the Nation;

(2) developing and updating periodically a program for furthering the conservation, protection, and enhancement of the soil, water, and related resources of the Nation consistent with the roles and program responsibilities of other Federal agencies and State and local governments; and

(3) providing to Congress and the public, through reports, the information developed pursuant to paragraphs (1) and (2) of this subsection, and by providing Congress with an annual evaluation report as provided in section 2006 of this title.

(Pub. L. 95-192, § 4, Nov. 18, 1977, 91 Stat. 1407.)

§ 2004. Continuing appraisal of soil, water, and related resources

(a) Data

In recognition of the importance of and need for obtaining and maintaining information on the current status of soil, water, and related resources, the Secretary is authorized and directed to carry out a continuing appraisal of the soil, water, and related resources of the Nation. The appraisal shall include, but not be limited to—

(1) data on the quality and quantity of soil, water, and related resources, including fish and wildlife habitats;

(2) data on the capability and limitations of those resources for meeting current and projected demands on the resource base;

(3) data on the changes that have occurred in the status and condition of those resources resulting from various past uses, including the impact of farming technologies, techniques, and practices;

(4) data on current Federal and State laws, policies, programs, rights, regulations, ownerships, and their trends and other considerations relating to the use, development, and conservation of soil, water, and related resources;

(5) data on the costs and benefits of alternative soil and water conservation practices; and

(6) data on alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors.

(b) Collection of data

The appraisal shall utilize data collected under this chapter and pertinent data and information collected by the Department of Agriculture and other Federal, State, and local agencies and organizations. The Secretary shall establish an integrated system capable of using combinations of resource data to determine the quality and capabilities for alternative uses of the resource base and to identify areas of local, State, and National concerns and related roles pertaining to soil and water conservation, resource use and development, and environmental improvement.

(c) Public participation

The appraisal shall be made in cooperation with conservation districts, State soil and water conservation agencies, and other appropriate citizen groups, and local and State agencies under such procedures as the Secretary may prescribe to insure public participation.

(d) Completion dates

The appraisal shall be completed by December 31, 1979, and at each five-year interval thereafter during the period this chapter is in effect.

(Pub. L. 95–192, § 5, Nov. 18, 1977, 91 Stat. 1408.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1674, 1675, 2005, 2006 of this title.

§ 2005. Soil and water conservation program

(a) Program development

The Secretary is hereby authorized and directed to develop in cooperation with and participation by the public through conservation districts, State and national organizations and agencies, and other appropriate means, a national soil and water conservation program (hereinafter called the "program") to be used as a guide in carrying out the activities of the Soil Conservation Service which assist landowners and land users, at their request, in furthering soil and water conservation on the private and non-Federal lands of the Nation. The program shall set forth direction for future soil and water conservation efforts of the United States Department of Agriculture based on the current soil, water, and related resource appraisal developed in accordance with section 2004 of this title, taking into consideration both the long- and short-term needs of the Nation, the landowners, and the land users, and the roles and responsibilities of Federal, State, and local governments in such conservation efforts. The program shall also include but not be limited to—

(1) analysis of the Nation's soil, water, and related resource problems;

(2) analysis of existing Federal, State, and local government authorities and adjustments needed;

(3) an evaluation of the effectiveness of the soil and water conservation ongoing programs and the overall progress being achieved by Federal, State, and local programs and the landowners and land users in meeting the soil and water conservation objectives of this chapter;

(4) identification and evaluation of alternative methods for the conservation, protection, environmental improvement, and enhancement of soil and water resources, in the context of alternative time frames, and a recommendation of the preferred alternatives and the extent to which they are being implemented;

(5) investigation and analysis of the practicability, desirability, and feasibility of collecting organic waste materials, including manure, crop and food wastes, industrial organic waste, municipal sewage sludge, logging and wood-manufacturing residues, and any other organic refuse, composting, or similarly treating such materials, transporting and placing such materials onto the land to improve soil tilth and fertility. The analysis shall include the projected cost of such collection, transportation, and placement in accordance with sound locally approved soil and water conservation practices;

(6) analysis of the Federal and non-Federal inputs required to implement the program;

(7) analysis of costs and benefits of alternative soil and water conservation practices; and

(8) investigation and analysis of alternative irrigation techniques regarding their costs, benefits, and impact on soil and water conservation, crop production, and environmental factors.

(b) Completion dates

The program plan shall be completed not later than December 31, 1979, and be updated at each five-year interval thereafter during the period this chapter is in effect.

(Pub. L. 95–192, § 6, Nov. 18, 1977, 91 Stat. 1409.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2006 of this title.

§ 2006. Reports to Congress

(a) Appraisal, program, and detailed statement of policy at five-year intervals

On the first day Congress convenes in 1980 and at each five-year interval thereafter during the period this chapter is in effect the President shall transmit to the Speaker of the House of Representatives and the President of the Senate, the appraisal and the program as required by sections 2004 and 2005 of this title, together with a detailed statement of policy regarding soil and water conservation activities of the United States Department of Agriculture.

(b) Annual report of program and policy achievement

Commencing with the fiscal year ending September 30, 1982, the President shall, not later than thirty days after the submission of the budget for each fiscal year, prepare and transmit to Congress a report expressing in qualitative and quantitative terms the extent to which the programs and policies projected under the budget meet the statement of policy submitted under subsection (a) of this section. In any case in which the budget recommends a course which fails to meet the statement of policy, the President shall set forth in his report under this subsection the reasons for requesting Congress to approve the lesser program or policies presented in the budget.

(c) Annual report accompanying budget covering program effectiveness

The Secretary, during budget preparation for fiscal year 1982 and annually thereafter during the period this chapter is in effect, shall prepare and transmit to the Congress, through the President, a report to accompany the budget which evaluates the program's effectiveness in attaining the purposes of this chapter. The report, prepared in concise summary form with

appropriate detailed appendices, shall contain pertinent data from the current resource appraisal required to be prepared by section 2004 of this title, shall set forth the progress in implementing the program required to be developed by section 2005 of this title, and shall contain appropriate measurements of pertinent costs and benefits. The evaluation shall assess the balance between economic factors and environmental quality factors. The report shall also indicate plans for implementing action and recommendations for new legislation where warranted.

(Pub. L. 95-192, § 7, Nov. 18, 1977, 91 Stat. 1410.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2003 of this title.

§ 2007. Authorization of appropriations

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this chapter.

(Pub. L. 95-192, § 8, Nov. 18, 1977, 91 Stat. 1411.)

§ 2008. Utilization of available information and data

In the implementation of this chapter, the Secretary shall utilize information and data available from other Federal, State, and local governments, and private organizations and he shall coordinate his actions with the resource appraisal and planning efforts of other Federal agencies and avoid unnecessary duplication and overlap of planning and program efforts.

(Pub. L. 95-192, § 9, Nov. 18, 1977, 91 Stat. 1411.)

§ 2009. Termination of program

The provisions of this chapter shall terminate on December 31, 1985.

(Pub. L. 95-192, § 10, Nov. 18, 1977, 91 Stat. 1411.)

CHAPTER 41—COOPERATIVE FORESTRY ASSISTANCE [NEW]

Sec.
2101. Policy and purpose.
(a) Congressional findings and declarations.
(b) Statement of purpose.
(c) Statement of national interest.
(d) Application of provisions with forest and rangeland renewable resources provisions.
2102. Rural forestry assistance.
(a) Congressional findings.
(b) Financial, technical, and related assistance to State foresters or equivalent State officials; purposes.
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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1606 of this title.

§ 2101. Policy and purpose

(a) Congressional findings and declarations

Congress finds and declares that—

(1) most of the Nation's productive forest land is in private, State, and local governmental ownership, and the Nation's capacity to produce renewable forest resources is significantly dependent on these non-Federal forest lands;

(2) adequate supplies of timber and other forest resources are essential to the Nation, and adequate supplies are dependent upon efficient methods for establishing, managing, and harvesting trees and processing, marketing, and using wood and wood products;

(3) managed forest lands provide habitats for fish and wildlife, as well as esthetics, outdoor recreation opportunities, and other forest resources;

(4) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;

(5) fires in rural areas threaten human lives, property, and forests and other resources, and Federal-State cooperation in forest fire protection has proven effective and valuable;

(6) trees and forests are of great environmental and economic value to urban areas; and

(7) managed forests contribute to improving the quality, quantity, and timing of water yields, which are of broad benefit to society.

(b) Statement of purpose

The purpose of this chapter is to authorize the Secretary of Agriculture (hereinafter in this chapter referred to as the "Secretary"), with respect to non-Federal forest lands, to assist in—

(1) the advancement of forest resources management;

(2) the encouragement of the production of timber;

(3) the prevention and control of insects and diseases affecting trees and forests;

(4) the prevention and control of rural fires;

(5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;

(6) the improvement and maintenance of fish and wildlife habitat; and

(7) the planning and conduct of urban forestry programs.

(c) Statement of national interest

It is in the national interest for the Secretary to work through and in cooperation with State foresters or equivalent State officials in implementing Federal programs affecting non-Federal forest lands.

(d) Application of provisions with forest and rangeland renewable resources provisions

This chapter shall be deemed to complement the policies and direction set forth in the Forest and Rangeland Renewable Resources Planning Act of 1974 [16 U.S.C. 1600 et seq.].

(Pub. L. 95-313, § 2, July 1, 1978, 92 Stat. 365.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (d), read in the original "this Act", meaning Pub. L. 95-313, July 1, 1978, 92 Stat. 365, known as the Cooperative Forestry Assistance Act of 1978. For complete classification of this Act to the Code, see Short Title note set out below and Tables.

The Forest and Rangeland Renewable Resources Planning Act of 1974, referred to in subsec. (d), is Pub. L. 93-378, Aug. 17, 1974, 88 Stat. 476, as amended, which is classified generally to subchapter I (§ 1600 et seq.) of chapter 36 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1600 of this title and Tables.

EFFECTIVE DATE

Section 14 of Pub. L. 95-313 provided that: "The provisions of this Act [see Short Title note set out below] shall become effective October 1, 1978."

SHORT TITLE

Section 1 of Pub. L. 95-313 provided: "That this Act [enacting this chapter, amending sections 1510 and 1606 of this title, repealing sections 565, 566, 567, 568c to 568e, 594-1 to 594-5, 594a, and 1509 of this title, and sections 2651 to 2654 of Title 7, Agriculture, enacting provisions set out as notes under this section and section 1606 of this title, and repealing provisions set out as notes under sections 568c and 594-1 of this title] may be cited as the 'Cooperative Forestry Assistance Act of 1978'."

§ 2102. Rural forestry assistance

(a) Congressional findings

Congress finds that—

(1) production of timber on non-Federal forest lands and the efficient processing and use of wood produced on these lands are important in meeting the Nation's demand for wood and wood products;

(2) the Federal Government can assist in increasing timber inventories, improving and maintaining fish and wildlife habitat, and providing other forest resources on non-Federal forest lands; and

(3) Federal assistance in forest resources management on non-Federal forest lands and the utilization of resources from these lands contribute to the economic strength and environmental quality of the Nation, providing many public benefits.

(b) Financial, technical, and related assistance to State foresters or equivalent State officials; purposes

The Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials to—

(1) develop genetically improved tree seeds;

(2) procure, produce, and distribute tree seeds and trees for the purpose of establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;

(3) plant tree seeds and trees for the reforestation or afforestation of non-Federal forest lands suitable for the production of timber and other benefits associated with the growing of trees;

(4) plan, organize, and implement measures on non-Federal forest lands, including, but not limited to, thinning, prescribed burning, and other silvicultural practices designed to increase the quantity and improve the quality of trees and other vegetation, fish and wildlife habitat, and water yielded therefrom;

(5) protect or improve soil fertility on non-Federal forest lands and the quality, quantity, and timing of water yields; and

(6) provide technical information, advice, and related assistance to private forest landowners and managers, vendors, forest operators, wood processors, public agencies, and individuals regarding—

(A) the harvesting, processing, and marketing of timber and other forest resources and the marketing and utilization of wood and wood products;

(B) conversion of wood to energy for domestic, industrial, municipal, and other uses;

(C) management planning and treatment of forest land, including, but not limited to, site preparation, reforestation, thinning, prescribed burning, and other silvicultural practices designed to increase the quantity and improve the quality of timber and other forest resources;

(D) protection and improvement of forest soil fertility and the quality, quantity, and timing of water yields; and

(E) the effects of forestry practices on fish and wildlife and their habitats.

(c) Authorization of appropriations

There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

(Pub. L. 95-313, § 3, July 1, 1978, 92 Stat. 366.)

§ 2103. Forestry incentives program

(a) Development and implementation; statement of purposes

The Secretary is authorized to develop and implement a forestry incentives program to encourage the development, management, and protection of nonindustrial private forest lands. The purposes of such program shall be to encourage landowners to apply practices that will provide for afforestation of suitable open lands, reforestation of cutover or other nonstocked or understocked forest lands, timber stand improvement practices, including thinning, prescribed burning, and other silvicultural treatments, and forest resources management and protection, so as to provide for the production of timber and other forest resources associated therewith.

(b) Definition

For the purposes of this section, the term "private forest land" means land capable of producing crops of industrial wood and owned by any private individual, group, Indian tribe or other native group, association, corporation, or other legal entity.

(c) Eligibility of landowners for cost sharing; exception; limitation on approval of cost sharing

Landowners shall be eligible for cost sharing under this program if they own one thousand acres or less of private forest land, except that the Secretary may approve cost sharing with landowners owning more than one thousand acres of such land if significant public benefits will accrue. In no case, however, may the Secretary approve cost sharing with landowners owning more than five thousand acres of private forest land.

(d) Administration

The Secretary shall administer this section in accordance with regulations the Secretary shall develop in consultation with the committee described in section 2109(c) of this title. Regulations issued under title X of the Agricultural Act of 1970 [16 U.S.C. 1501 et seq.], as added by the Agriculture and Consumer Protection Act of 1973, to the extent not inconsistent with the provisions of this section, shall remain in effect until revoked or amended by regulations issued under this subsection. The regulations issued under this subsection shall include guidelines for the administration of this section at the Federal and State levels, and shall identify the measures and activities eligible for cost sharing under this section.

(e) Individual forest management plans as basis for agreements between landowners and Secretary; preparation of plans

Individual forest management plans developed by the landowner in cooperation with and approved by the State forester or equivalent State official shall be the basis for agreements between the landowner and the Secretary

under this section. The Secretary shall encourage participating States to use private agencies, consultants, organizations, and firms to the extent feasible for the preparation of individual forest management plans.

(f) Cost sharing for implementation of appropriate forestry practices and measures set forth in agreement; apportionment; maximum amount

In return for the agreement by the landowner, the Secretary shall agree to share the cost of implementing those forestry practices and measures set forth in the agreement for which the Secretary determines that cost sharing is appropriate. The portion of such cost (including labor) to be shared shall be that portion that the Secretary determines is necessary and appropriate to implement the forestry practices and measures under the agreement, but not more than 75 percent of the actual costs incurred by the landowner. The maximum amount any individual may receive annually under the program authorized by this section shall be determined by the Secretary in consultation with the committee described in section 2109(c) of this title.

(g) Prerequisites for distribution of funds available for cost sharing

The Secretary shall, for the purposes of this section, distribute funds available for cost sharing among the States only after assessing the public benefit incident thereto, and after giving appropriate consideration to (1) the acreage of private commercial forest land in each State, (2) the potential productivity of such land, (3) the number of ownerships eligible for cost sharing in each State, (4) the need for reforestation, timber stand improvement, or other forestry investments on such ownerships, and (5) the enhancement of other forest resources.

(h) Use of advertising and bid procedure in determining lands to be covered by agreements; prerequisites

The Secretary may, if the Secretary determines that doing so will contribute to the effective and equitable administration of the program authorized by this section, use an advertising and bid procedure in determining the lands in any area to be covered by agreements under this section.

(i) Applicability of other Federal authorities in implementation of provisions

In implementing this section, the Secretary may use the authorities provided in sections 1001, 1002, 1003, 1004, and 1008 of the Agricultural Act of 1970 [16 U.S.C. 1501, 1502, 1503, 1504, and 1508], as added by the Agriculture and Consumer Protection Act of 1973.

(j) Authorization of appropriations

There are hereby authorized to be appropriated annually such sums as may be needed to implement this section, including funds necessary for technical assistance and expenses associated therewith.

(Pub. L. 95-313, § 4, July 1, 1978, 92 Stat. 367.)

REFERENCES IN TEXT

The Agricultural Act of 1970, referred to in subsec. (d), is Pub. L. 91-524, Nov. 30, 1970, 84 Stat. 1358, as amended. Title X of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 is classified generally to chapter 34 (§ 1501 et seq.) of this title. For complete classification of this Act to the Code see Short Title of 1970 Amendment note set out under section 1281 of Title 7, Agriculture, and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2108 of this title; title 26 section 126.

§ 2104. Insect and disease control

(a) Protection of trees, etc., in use directly on National Forest System and in cooperation with others on other lands in United States; purposes

The Secretary is authorized to protect from insects and diseases trees and forests and wood products, stored wood, and wood in use directly on the National Forest System and in cooperation with others on other lands in the United States, in order to—

(1) enhance the growth and maintenance of trees and forests;

(2) promote the stability of forest-related industries and employment associated therewith through protection of forest resources;

(3) aid in forest fire prevention and control;

(4) conserve forest cover on watersheds;

(5) protect outdoor recreation opportunities and other forest resources; and

(6) extend timber supplies by protecting wood products, stored wood, and wood in use.

(b) Additional protective functions and responsibilities; applicable provisions and conditions; scope of cooperative requirements

Subject to the provisions of subsections (c), (d), and (e) of this section and subject to whatever other conditions the Secretary may prescribe, the Secretary is authorized, directly on the National Forest System, and in cooperation with other Federal departments on other Federal lands, and in cooperation with State foresters or equivalent State officials, subdivisions of States, agencies, institutions, organizations, or individuals on non-Federal lands, to—

(1) conduct surveys to detect and appraise insect infestations and disease conditions affecting trees;

(2) determine the biological, chemical, and mechanical measures necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease conditions affecting trees;

(3) plan, organize, direct, and perform measures the Secretary determines necessary to prevent, retard, control, or suppress incipient, potential, threatening, or emergency insect infestations and disease epidemics affecting trees;

(4) provide technical information, advice, and related assistance in managing and coordinating the use of pesticides and other toxic substances applied to trees and other vegetation, and to wood products, stored wood, and wood in use; and

(5) take any other actions the Secretary deems necessary to accomplish the objectives and purposes of this section.

(c) Consent, cooperation, and participation of entity owning or having jurisdiction over land not controlled or administered by Secretary and subject to preventive, etc., operations

Operations planned to prevent, retard, control, or suppress insects or diseases affecting forests and trees on land not controlled or administered by the Secretary shall not be conducted without the consent, cooperation, and participation of the entity having ownership of or jurisdiction over the affected land.

(d) Contribution or agreement to contribute by entity owning or having jurisdiction over non-Federal land subject to preventive, etc., operations as prerequisite to expending appropriated funds; amount and manner of contribution

No money appropriated to implement this section shall be expended to prevent, retard, control, or suppress insects or diseases affecting trees on non-Federal land until the entity having ownership of or jurisdiction over the affected land contributes, or agrees to contribute, to the work to be done in the amount and in the manner determined by the Secretary.

(e) Allocations to Federal agencies having jurisdiction over lands held or owned by United States for preventive, etc., operations; amount of allocations

The Secretary may, in the Secretary's discretition and out of any money appropriated to implement this section, make allocations to Federal agencies having jurisdiction over lands held or owned by the United States in the amounts the Secretary deems necessary to prevent, retard, control, or suppress insect infestations and disease epidemics affecting trees on those lands.

(f) Availability, limitations, etc., on use of appropriated amounts; procurement of materials and equipment

Any money appropriated to implement this section shall be available for necessary expenses. However, no money appropriated to implement this section shall be used to (1) pay the cost of felling and removing dead or dying trees unless the Secretary determines that such actions are necessary to prevent the spread of a major insect infestation or disease epidemic severely affecting trees, or (2) compensate for the value of any property injured, damaged, or destroyed by any cause. The Secretary may procure materials and equipment necessary to prevent, retard, control, or suppress insects and diseases affecting trees without regard to section 5 of title 41, under whatever procedures the Secretary may prescribe, whenever the Secretary deems such action necessary and in the public interest.

(g) Authorization of appropriations

There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

(Pub. L. 95-313, § 5, July 1, 1978, 92 Stat. 368.)

§ 2105. Urban forestry assistance

(a) Congressional findings

Congress finds that—

(1) trees and forests in urban areas, including cities, their suburbs, and towns, improve esthetic quality, reduce noise, filter impurities from the air and add oxygen to it, save energy by moderating temperature extremes, control wind and water erosion, and provide habitat for wildlife;

(2) trees and forests in urban areas are weakened, damaged, or killed by highway and street widening, sidewalk construction, air pollution, modified drainage patterns, erosion, depletion of soil fertility, insects and diseases, mechanical and structural facilities, and other adverse influences that result from or are aggravated by the concentrated use of land; and

(3) planting, protecting, and maintaining trees and forests and utilizing wood from pruned limbs, damaged trees, and felled trees in urban areas make those areas more pleasant and healthful.

(b) Financial, technical, and related assistance to State foresters or equivalent State officials; purposes

The Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the purpose of encouraging States to provide information and technical assistance to units of local government and others that will encourage cooperative efforts to plan urban forestry programs and to plant, protect, and maintain, and utilize wood from, trees in open spaces, greenbelts, roadside screens, parks, woodlands, curb areas, and residential developments in urban areas. The Secretary is also authorized to cooperate directly with units of local government and others in implementing this section whenever the Secretary and the affected State forester or equivalent State official agree that direct cooperation would better achieve the purposes of this section.

(c) Authorization of appropriations

There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

(Pub. L. 95-313, § 6, July 1, 1978, 92 Stat. 369.)

§ 2106. Rural fire prevention and control

(a) Congressional findings

Congress finds that—

(1) significant accomplishments have been made by the Secretary and cooperating States in the prevention and control of fires on forest lands and on nonforested watersheds for more than fifty years;

(2) progress is being made by the Secretary and cooperating States and rural communities in the protection of human lives, agricultural crops and livestock, property and other improvements, and natural resources from fires in rural areas;

(3) notwithstanding the accomplishments and progress that have been made, fire prevention and control on rural lands and in rural communities are of continuing high priority to protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(4) the effective cooperative relationships between the Secretary and the States regard-

ing fire prevention and control on rural lands and in rural communities should be retained and improved;

(5) efforts in fire prevention and control in rural areas should be coordinated among Federal, State, and local agencies; and

(6) in addition to providing assistance to State and local rural fire prevention and control programs, the Secretary should provide prompt and adequate assistance whenever a rural fire emergency overwhelms, or threatens to overwhelm, the firefighting capability of the affected State or rural area.

(b) Implementation of provisions

Notwithstanding the Federal Fire Prevention and Control Act of 1974 [15 U.S.C. 2201 et seq.] the Secretary is authorized, under whatever conditions the Secretary may prescribe, to—

(1) cooperate with State foresters or equivalent State officials in developing systems and methods for the prevention, control, suppression, and prescribed use of fires on rural lands and in rural communities that will protect human lives, agricultural crops and livestock, property and other improvements, and natural resources;

(2) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, for the prevention, control, suppression, and prescribed use of fires on non-Federal forest lands and other non-Federal lands; and

(3) provide financial, technical, and related assistance to State foresters or equivalent State officials in cooperative efforts to organize, train, and equip local firefighting forces, including those of Indian tribes or other native groups, to prevent, control, and suppress fires threatening human lives, crops, livestock, farmsteads or other improvements, pastures, orchards, wildlife, rangeland, woodland, and other resources in rural areas. As used herein, the term "rural areas" shall have the meaning set out in the first clause of section 1926(a)(7) of title 7.

(c) Encouragement of use of excess personal property by State and local fire forces receiving assistance; cooperation and assistance of Administrator of General Services

The Secretary, with the cooperation and assistance of the Administrator of General Services, shall encourage the use of excess personal property (within the meaning of the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.]) by State and local fire forces receiving assistance under this section.

(d) Coordination of assistance with assistance of Secretary of Commerce under Federal fire prevention and control provisions

To promote maximum effectiveness and economy, the Secretary shall seek to coordinate the assistance the Secretary provides under this section with the assistance provided by the Secretary of Commerce under the Federal Fire Prevention and Control Act of 1974 [15 U.S.C. 2201 et seq.].

(e) Authorization of appropriations for implementation of provisions

There are hereby authorized to be appropriated annually such sums as may be needed to implement subsection (b) of this section.

(f) Special rural fire disaster fund; establishment, appropriations, etc.

There shall be established in the Treasury a special rural fire disaster fund that shall be immediately available to and used by the Secretary to supplement any other money available to carry out this section with respect to rural fire emergencies, as determined by the Secretary. The Secretary shall determine that State and local resources are fully used or will be fully used before expending money in the disaster fund to assist a State in which one or more rural fire emergencies exist. There are hereby authorized to be appropriated such sums as may be needed to establish and replenish the disaster fund established by this subsection.

(Pub. L. 95-313, § 7, July 1, 1978, 92 Stat. 370.)

REFERENCES IN TEXT

The Federal Fire Prevention and Control Act of 1974, referred to in subsec. (b) and (d), is Pub. L. 93-498, Oct. 29, 1974, 88 Stat. 1535, as amended, which is classified principally to chapter 49 (§ 2201 et seq.) of Title 15, Commerce and Trade. For complete classification of the Act to the Code, see Short Title note set out under section 2201 of Title 15 and Tables.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The surplus property provisions of that act are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note under section 471 of Title 40 and Tables.

TRANSFER OF FUNCTIONS

Functions vested in the Secretary of Commerce pursuant to the provisions of the Federal Fire Prevention Control Act of 1974, 15 U.S.C. 2201 et seq., were transferred to the Director of the Federal Emergency Management Agency pursuant to Reorg. Plan No. 3 of 1978, § 201, June 19, 1978, 43 F.R. 41944, 92 Stat. 3790, set out as a note under section 2201 of Title 15, Commerce and Trade, effective Apr. 1, 1979, as provided by Ex. Ord. No. 12127, §§ 1-101, 1-103(a), Mar. 31, 1979, 44 F.R. 19637.

§ 2107. Financial, technical, and related assistance to States

(a) Development of State organizations for protection and management of non-Federal forest lands; scope of assistance; request by officials

To aid in achieving maximum effectiveness in the programs and activities conducted under this chapter, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials for the development of stronger and more efficient State organizations that will enable them to fulfill better their responsibilities for the protection and management of non-Federal forest lands. Assistance under this subsection may include, but will not be limited to, assistance in matters related to organization management, program planning and management, budget and fiscal accounting services, personnel training and management, information services,

and recordkeeping. Assistance under this subsection may be extended only upon request by State foresters or equivalent State officials.

(b) Assembly, analysis, display, and reporting of State forest resources data, resources planning, etc.; scope of assistance; other statutory provisions unaffected

To ensure that data regarding forest lands are available for and effectively presented in State and Federal natural resources planning, the Secretary is authorized to provide financial, technical, and related assistance to State foresters or equivalent State officials in the assembly, analysis, display, and reporting of State forest resources data, in the training of State forest resources planners, and in participating in natural resources planning at the State and Federal levels. The Secretary shall restrict assistance under this subsection to the implementation of the forestry aspects of State and Federal natural resources planning conducted under other laws. This subsection shall not be construed, in any way whatsoever, as extending, limiting, amending, repealing, or otherwise affecting any other law or authority.

(c) Technology implementation program; scope of program; availability of funds; use of forest resources planning committees

To ensure that new technology is introduced, new information is integrated into existing technology, and forest resources research findings are promptly made available to State forestry personnel, private forest landowners and managers, vendors, forest operators, wood processors, public agencies, and individuals, the Secretary is authorized to carry out a program of technology implementation.

(1) In implementing this subsection, the Secretary is authorized to work through State foresters or equivalent State officials, and, if the State forester or equivalent State official is unable to deliver these services, the Secretary is authorized to act through appropriate United States Department of Agriculture agencies, subdivisions of States, agencies, institutions, organizations, or individuals to—

(A) strengthen technical assistance and service programs of cooperators participating in programs under this chapter by applying research results and conducting pilot projects and field tests of management and utilization practices, equipment, and technologies, related to programs and activities authorized under this chapter;

(B) study the effects of tax laws, methods, and practices on forest management;

(C) develop and maintain technical information systems in support of programs and activities authorized under this chapter;

(D) test, evaluate, and seek registration of chemicals for use in implementing the programs and activities authorized under this chapter;

(E) conduct other activities, including training of State forestry personnel whom the Secretary deems necessary to ensure that the programs and activities authorized under this chapter are responsive to special problems, unique situations, and changing conditions.

(2) The Secretary may make funds available to cooperators under this chapter without regard to the provisions of section 529 of title 31, which prohibits advances of public money.

(3) The Secretary shall use forest resources planning committees at National and State levels in implementing this subsection.

(d) Authorization of appropriations

There are hereby authorized to be appropriated annually such sums as may be needed to implement this section.

(Pub. L. 95-313, § 8, July 1, 1978, 92 Stat. 371.)

§ 2108. Consolidation of payments

(a) Request by State; excluded funds

To provide flexibility in funding activities authorized under this chapter, the Secretary may, upon the request of any State, consolidate the annual financial assistance payments to that State under this chapter, in lieu of functional cost sharing mechanisms, formulas, or agreements. However, consolidated payments shall not include money appropriated under section 2103 of this title or money from any special Treasury fund established under this chapter.

(b) State forest resources programs as basis

Consolidation of payments made under this section shall be based upon State forest resources programs developed by State foresters or equivalent State officials, and reviewed by the Secretary.

(c) Amount of payments

Consolidated payments to any State during any fiscal year shall not exceed the total amount of non-Federal funds expended within the State during that year to implement its State forest resources program. However, the Secretary may make payments that exceed the non-Federal amount expended for selected activities under the program, if the total Federal expenditure during any fiscal year does not exceed the total non-Federal expenditure during that year under the State forest resources program.

(d) Certification requirement by State forester or equivalent State official for Federal payment

The Secretary may make consolidated payments on the certificate of the State forester or equivalent State official that the conditions for Federal payment have been met.

(e) Administration of consolidated payments program not to adversely affect, etc., other programs

The Secretary shall administer this section to ensure that the use of consolidated payments does not adversely affect or eliminate any program authorized under this chapter.

(f) Total annual amount of financial assistance to participating State; financial assistance for special projects not to be included in determining base amount

Subject to applicable appropriation Acts, the total annual amount of financial assistance to any participating State after July 1, 1978, shall not be less than the base amount of financial assistance provided to that State under all the provisions of law specified in section 2111 of this title during the fiscal year in which this

chapter is enacted. However, financial assistance for special projects of two years or less duration shall not be included in determining the base amount for any participating State.

(Pub. L. 95-313, § 9, July 1, 1978, 92 Stat. 372.)

§ 2109. General provisions

(a) Cooperative and coordinating requirements for implementation of programs, etc.

In implementing this chapter, the Secretary shall, to the maximum extent practicable—

(1) work through, cooperate with, and assist State foresters or equivalent State officials;

(2) encourage cooperation and coordination between State foresters or equivalent State officials and other State agencies that manage renewable natural resources;

(3) use and encourage cooperators under this chapter to use, private agencies, consultants, organizations, firms, and individuals to furnish necessary materials and services; and

(4) promote effectiveness and economy by coordinating the direct actions and assistance authorized under this chapter with related programs the Secretary administers, and with cooperative programs of other agencies.

(b) Availability of appropriations

Money appropriated under this chapter shall remain available until expended.

(c) Consultation requirements for implementation of programs, etc.

Requirements for the development of State forest resources programs and State participation in management assistance, planning assistance, and technology implementation, the apportionment of funds among States participating under this chapter, the administrative expenses in connection with activities and programs under this chapter, and the amounts to be expended by the Secretary to assist non-State cooperators under this chapter, shall be determined by the Secretary in consultation with a committee of not less than five State foresters or equivalent State officials selected by a majority of the State foresters or equivalent State officials from States participating in programs under this chapter. However, the Secretary need not consult with such committee regarding funds to be expended under emergency conditions that the Secretary may determine.

(d) Definitions

For the purposes of this chapter—

(1) The terms "United States" and "State" shall include each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the territories and possessions of the United States;

(2) The term "forest resources" shall include esthetics, fish and wildlife, forage, outdoor recreation opportunities, timber, and water; and

(3) The term "urban forestry" means the planning, establishment, protection, and management of trees and associated plants, individually, in small groups, or under forest conditions within cities, their suburbs, and towns.

(e) Rules and regulations

The Secretary may prescribe rules and regulations, as the Secretary deems appropriate, to implement the provisions of this chapter.

(f) Granting, etc., authorities

The Secretary is authorized to make grants, agreements, contracts, and other arrangements the Secretary deems necessary to implement this chapter.

(g) Construction of statutory provisions

This chapter shall be construed as supplementing all other laws relating to the Department of Agriculture and shall not be construed as limiting or repealing any existing law or authority of the Secretary, except as specifically cited in section 2111 of this title.

(Pub. L. 95-313, § 10, July 1, 1978, 92 Stat. 373.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2103 of this title.

§ 2110. Limitations on statutory authorities

This chapter does not authorize the Federal Government to regulate the use of private land or to deprive owners of land of their rights to property or to income from the sale of property, and this chapter does not diminish in any way the rights and responsibilities of the States and political subdivisions of States.

(Pub. L. 95-313, § 11, July 1, 1978, 92 Stat. 374.)

§ 2111. Other Federal programs

(a) Repeal of statutory authorities

The following laws, and portions of laws, are hereby repealed:

(1) sections 1, 2, 3, and 4 of the Act of June 7, 1924, known as the Clarke-McNary Act (43 Stat. 653-654, as amended; 16 U.S.C. 564, 565, 566, 567);

(2) the Act of April 26, 1940, known as the White Pine Blister Rust Protection Act (54 Stat. 168; 16 U.S.C. 594a);

(3) the Forest Pest Control Act;

(4) the Cooperative Forest Management Act;

(5) section 401 of the Agricultural Act of 1956 [16 U.S.C. 568e];

(6) title IV of the Rural Development Act of 1972 [7 U.S.C. 2651 et seq.]; and

(7) section 1009 and the proviso to section 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 [16 U.S.C. 1509, 1510 proviso].

(b) Force and effect of contracts and cooperative and other agreements under cooperative forestry programs executed under authority of repealed statutes

Contracts and cooperative and other agreements under cooperative forestry programs executed under authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall remain in effect until revoked or amended by their own terms or under other provisions of law.

(c) Availability of funds appropriated under authority of repealed statutes for cooperative forestry assistance programs

Funds appropriated under the authority of the Acts, or portions thereof, repealed under subsection (a) of this section shall be available for expenditure for the programs authorized under this chapter.

(Pub. L. 95-313, § 13, July 1, 1978, 92 Stat. 374.)

REFERENCES IN TEXT

The Act of April 26, 1940, known as the White Pine Blister Rust Protection Act (54 Stat. 168; 16 U.S.C. 594a), referred to in subsec. (a)(2), is act Apr. 26, 1940, ch. 159, 54 Stat. 168, which enacted section 594a of this title.

The Forest Pest Control Act, referred to in subsec. (a)(3), is act June 25, 1947, ch. 141, 61 Stat. 177, as amended, which enacted sections 594-1 to 594-5 of this title and enacted provisions set out as notes under section 594-1 of this title. For complete classification of this Act to the Code, see Tables.

The Cooperative Forest Management Act, referred to in subsec. (a)(4), is act Aug. 25, 1950, ch. 781, 64 Stat. 473, as amended, which enacted sections 568c and 568d of this title, repealed section 568b of this title, and enacted a provision set out as a note under section 568c of this title. For complete classification of this Act to the Code, see Tables.

The Rural Development Act of 1972, referred to in subsec. (a)(6), is Pub. L. 92-419, Aug. 30, 1972, 86 Stat. 657, as amended. Title IV of the Rural Development Act of 1972 was classified generally to subchapter I (§ 2651 et seq.) of chapter 59 of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 1929a of Title 7, Agriculture, and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2108, 2109 of this title.

CHAPTER 42—EMERGENCY CONSERVATION PROGRAM [NEW]

Sec.
2201. Payments to agricultural producers for carrying out wind erosion control or rehabilitation measures; criteria.
2202. Payments to agricultural producers for carrying out water conservation or water enhancing measures; criteria.
2203. Undertaking of runoff retardation and soil-erosion preventive measures; cooperation with landowners and land users; criteria.
2204. Authorization of appropriations; availability of funds; implementation of provisions; limitations on expenditures.
2205. Regulations for implementation of provisions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 26 section 126.

§ 2201. Payments to agricultural producers for carrying out wind erosion control or rehabilitation measures; criteria

The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency measures to control wind erosion on farmlands or to rehabilitate farmlands damaged by wind erosion, floods, hurricanes, or other natural disasters when, as a result of the foregoing, new conservation problems have been created that (1) if not treated, will impair or endanger the land, (2) materially affect the productive capacity of the land, (3) represent damage that is unusual in character and, except for wind erosion, is not the type that would recur frequently in the same area, and (4) will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use.

(Pub. L. 95-334, title IV, § 401, Aug. 4, 1978, 92 Stat. 433.)

EFFECTIVE DATE

Section 406 of title IV of Pub. L. 95-334 provided that: "The provisions of this title [enacting this chapter] shall become effective October 1, 1978".

§ 2202. Payments to agricultural producers for carrying out water conservation or water enhancing measures; criteria

The Secretary of Agriculture is authorized to make payments to agricultural producers who carry out emergency water conservation or water enhancing measures during periods of severe drought as determined by the Secretary.

(Pub. L. 95-334, title IV, § 402, Aug. 4, 1978, 92 Stat. 434.)

§ 2203. Undertaking of runoff retardation and soil-erosion preventive measures; cooperation with landowners and land users; criteria

The Secretary of Agriculture is authorized to undertake emergency measures for runoff retardation and soil-erosion prevention, in cooperation with landowners and land users, as the Secretary deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence is causing or has caused a sudden impairment of that watershed.

(Pub. L. 95-334, title IV, § 403, Aug. 4, 1978, 92 Stat. 434.)

§ 2204. Authorization of appropriations; availability of funds; implementation of provisions; limitations on expenditures

There are authorized to be appropriated such funds as may be necessary to carry out the purposes of this chapter. Such funds shall remain available until expended. In implementing the provisions of this chapter, the Secretary of Agriculture may use the facilities, services, and authorities of the Commodity Credit Corporation. The Corporation shall not make any expenditures to carry out the provisions of this chapter unless funds specifically appropriated for such purpose have been transferred to it.

(Pub. L. 95-334, title IV, § 404, Aug. 4, 1978, 92 Stat. 434.)

§ 2205. Regulations for implementation of provisions

The Secretary of Agriculture is authorized to prescribe such regulations as the Secretary determines necessary to carry out the provisions of this chapter.

(Pub. L. 95-334, title IV, § 405, Aug. 4, 1978, 92 Stat. 434.)

CHAPTER 43—PUBLIC TRANSPORTATION PROGRAMS FOR NATIONAL PARK SYSTEM AREAS [NEW]

Sec.
2301. Congressional statement of findings and purpose.
2302. Transportation service and facility programs.
(a) Formulation and implementation of plans and projects developed pursuant to plans.
(b) Contracts, acquisitions, etc., for improvement of access to park system units.
(c) Prerequisites for acquisitions.
(d) Appropriation of fees collected and covered into Planning, Development, and Operation of Recreational Facilities appropriation account.
(e) Establishment of information programs.
(f) Undertaking of concession facilities or services.
(g) Construction of grant of authority respecting operation of motor vehicles excepted from statutory coverage.
2303. Transportation projects; assistance of heads of other Federal departments and agencies in formulation and implementation; report to congressional committees concerning planning, etc.
2304. Procedures applicable to formulation and implementation of transportation plans and projects developed pursuant to plans.
2305. Report to Congress; contents.
2306. Authorization of appropriations; availability of amounts.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 460ll-1, 460ll-2, 460ll-3, 460ll-4 of this title.

§ 2301. Congressional statement of findings and purpose

(a) The Congress hereby finds that—

(1) the purpose of the National Park System is to preserve outstanding natural, scenic, historic, and recreation areas for the enjoyment, education, inspiration, and use of all people;

(2) units of the National Park System have recently been established near major metropolitan areas in order to preserve remaining open space and to provide recreational opportunities for urban residents (many of whom do not have access to personal motor vehicles); and

(3) circumstances which necessarily require people desiring to visit units of the National Park System to rely on personal motor vehicles may diminish the natural and recreational value of such units by causing traffic congestion and environmental damage, and by requiring the provision of roads, parking, and other facilities in ever-increasing numbers and density.

(b) The purpose of this chapter is to make the National Park System more accessible in a manner consistent with the preservation of parks and the conservation of energy by encouraging the use of transportation modes other than personal motor vehicles for access to and within units of the National Park System with minimum disruption to nearby communities through authorization of a pilot transportation program.

(Pub. L. 95-344, title III, § 301, Aug. 15, 1978, 92 Stat. 477.)

§ 2302. Transportation service and facility programs

(a) Formulation and implementation of plans and projects developed pursuant to plans

The Secretary of the Interior (hereinafter referred to as "Secretary") is authorized to formulate transportation plans and implement transportation projects where feasible pursuant to those plans for units of the national park system.

(b) Contracts, acquisitions, etc., for improvement of access to park system units

To carry out the purposes of subsection (a) of this section, the Secretary is authorized to—

(1) contract with public or private agencies or carriers to provide transportation services, capital equipment, or facilities to improve access to units of the national park system;

(2) operate such services directly in the absence of suitable and adequate agencies or carriers;

(3) acquire by purchase, lease, or agreement, capital equipment for such services; and

(4) where necessary to carry out the purposes of this chapter, acquire by lease, purchase, donation, exchange, or transfer, lands, waters, and interests therein which are situated outside the boundary of a unit of the national park system, which property shall be administered as part of the unit: *Provided,* That any land or interests in land owned by a State or any of its political subdivisions may be acquired only by donation: *Provided further,* That any land acquisition shall be subject to such statutory limitations, if any, on methods of acquisition and appropriations thereof as may be specifically applicable to such area.

(c) Prerequisites for acquisitions

Acquisitions pursuant to subsection (b)(3) and (4) of this section shall not commence prior to sixty days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) from the time the Secretary has submitted a detailed proposal for such acquisitions to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(d) Appropriation of fees collected and covered into Planning, Development, and Operation of Recreational Facilities appropriation account

All fees directly collected by the National Park Service in the operation of the facilities and services authorized by this chapter shall be covered into the Planning, Development, and Operation of Recreation Facilities appropriation account to be subject to appropriation.

(e) Establishment of information programs

The Secretary shall establish information programs to inform the public of available park access opportunities and to promote the use of

transportation modes other than personal motor vehicles for access to and travel within the units of the national park system.

(f) Undertaking of concession facilities or services

Transportation facilities and services provided pursuant to this chapter shall not be considered as concession facilities or services within the meaning of the Act of October 9, 1965 (79 Stat. 969) [16 U.S.C. 20 et seq.] and may be undertaken by the Secretary directly or by contract without regard to any requirement of local, State, or Federal law respecting determinations of public convenience and necessity or other similar matters: *Provided*, That the Secretary or his contractor shall consult with the appropriate State or local public service commission or other such body having authority to issue certificates of convenience and necessity, and any such contractor shall be subject to applicable requirements of such body unless the Secretary determines that such requirements would not be consistent with the purposes and provisions of this chapter.

(g) Construction of grant of authority respecting operation of motor vehicles excepted from statutory coverage

No grant of authority in this chapter shall be deemed to expand the exemption of section 10526(a)(9) of title 49.

(Pub. L. 95-344, title III, § 302, Aug. 15, 1978, 92 Stat. 478.)

REFERENCES IN TEXT

The Act of October 9, 1965 (79 Stat. 969), referred to in subsec. (f), is Pub. L. 89-249, Oct. 9, 1965, 79 Stat. 969, as amended, which is classified principally to subchapter IV (§ 20 et seq.) of chapter 1 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

In subsec. (g), "section 10526(a)(9) of title 49" was substituted for "section 203(b)(4) of the Interstate Commerce Act (49 U.S.C. 303(b)(4)" on authority of section 3(b) of Pub. L. 95-473, Oct. 17, 1978, 92 Stat. 1466, the first section of which enacted subtitle IV (§ 10101 et seq.) of Title 49, Transportation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2304 of this title.

§ 2303. Transportation projects; assistance of heads of other Federal departments and agencies in formulation and implementation; report to congressional committees concerning planning, etc.

(a) To carry out the purposes of this chapter, the Secretary of Transportation, the Secretary of Housing and Urban Development, the Secretary of Health, Education, and Welfare, and the Secretary of Commerce, and the heads of such other Federal departments or agencies as the Secretary deems necessary are directed to assist the Secretary in the formulation and implementation of transportation projects.

(b) Within one hundred and eighty days from August 15, 1978, the Secretary shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, a compilation of Federal statutes and programs providing authority for the planning, funding, or operation of transportation projects which might be utilized by the Secretary to carry out the purpose of this chapter. The Secretary shall revise the compilation thereafter as he deems necessary.

(Pub. L. 95-344, title III, § 303, Aug. 15, 1978, 92 Stat. 479.)

§ 2304. Procedures applicable to formulation and implementation of transportation plans and projects developed pursuant to plans

(a) The Secretary shall, during the formulation of any transportation plan authorized pursuant to section 2302 of this title—

(1) give public notice of intention to formulate such a plan by publication in the Federal Register and in a newspaper or periodical having general circulation in the vicinity of the affected unit of the national park system;

(2) following such notice hold a public meeting at a location or locations convenient to the affected unit of the National Park System.

(b) Prior to the implementation of any project developed pursuant to the transportation plan formulated pursuant to subsection (a) of this section, the Secretary shall—

(1) establish procedures, including but not limited to public meetings, to give State and local governments and the public adequate notice and an opportunity to comment on the proposed transportation project; and

(2) submit, when the proposed project would involve an expenditure in excess of $100,000 in any fiscal year, a detailed report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. The Secretary may proceed with the implementation of such plan only after sixty days (not counting days on which the Senate or House of Representatives has adjourned for more than three consecutive days) have elapsed following submission of the plan.

(Pub. L. 95-344, title III, § 304, Aug. 15, 1978, 92 Stat. 479.)

§ 2305. Report to Congress; contents

The Secretary shall submit a report to the Congress within three years of August 15, 1978. The report shall include, but not be limited to, his findings and recommendations regarding—

(a) preservation of natural resource values within units of the National Park System through access alternatives;

(b) effects of transportation projects on communities in close proximity to the units of the National Park System; and

(c) future transportation projects formulated pursuant to this chapter.

(Pub. L. 95-344, title III, § 305, Aug. 15, 1978, 92 Stat. 479.)

§ 2306. Authorization of appropriations; availability of amounts

In carrying out the purposes of this chapter, there is hereby authorized to be appropriated

$1,000,000 for fiscal year 1979; $2,000,000 for fiscal year 1980; and $3,000,000 for fiscal year 1981, which shall remain available until expended. In a fiscal year when the amounts actually appropriated are less than the amounts listed above, the authorized but unappropriated amount shall continue to be available for appropriation in succeeding fiscal years.

(Pub. L. 95-344, title III, § 306, Aug. 15, 1978, 92 Stat. 480.)

CHAPTER 44—ANTARCTIC CONSERVATION [NEW]

Sec.
2401. Congressional findings and declaration of purpose.
(a) Findings.
(b) Purpose.
2402. Definitions.
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(a) In general.
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(a) In general.
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2405. Regulations.
(a) In general.
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2409. Enforcement.
(a) Responsibility.
(b) Powers of authorized officers.
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(d) Forfeiture.
(e) Application of customs laws.
(f) Regulations.
2410. Jurisdiction of courts.
2411. Federal agency cooperation.
2412. Relationship to existing treaties.

§ 2401. Congressional findings and declaration of purpose

(a) Findings

The Congress finds that—

(1) the Antarctic Treaty and the Agreed Measures for the Conservation of Antarctic Fauna and Flora, adopted at the Third Antarctic Treaty Consultative Meeting, have established a firm foundation for the continuation of international cooperation and the freedom of scientific investigation in Antarctica; and

(2) the study of Antarctic fauna and flora, their adaptation to their rigorous environment, and their interrelationships with that environment has special scientific importance for all mankind.

(b) Purpose

The purpose of this chapter is to provide for the conservation and protection of the fauna and flora of Antarctica, and of the ecosystem upon which such fauna and flora depend, consistent with the Antarctic Treaty, the Agreed Measures for the Conservation of Antarctic Fauna and Flora, and Recommendation VII-3 of the Eighth Antarctic Treaty Consultative Meeting.

(Pub. L. 95-541, § 2, Oct. 28, 1978, 92 Stat. 2048.)

Short Title

Section 1 of Pub. L. 95-541 provided: "That this Act [enacting this chapter, amending section 1971 of title 22, Foreign Relations and Intercourse, and enacting a provision set out as a note under section 1971 of title 22] may be cited as the 'Antarctic Conservation Act of 1978'."

§ 2402. Definitions

For purposes of this chapter—

(1) The term "Agreed Measures" means the Agreed Measures for the Conservation of Antarctic Fauna and Flora—

(A) as recommended to the Consultative Parties for approval at the Third Antarctic Treaty Consultative Meeting; and

(B) as amended from time to time in accordance with Article IX(1) of the Treaty.

(2) The term "Antarctica" means the area south of 60 degrees south latitude.

(3) The term "collect" means to cut, sever, or move, or to attempt to engage in any such conduct.

(4) The term "Director" means the Director of the National Science Foundation or an officer or employee of the Foundation designated by the Director.

(5) The term "foreign person" means—

(A) any individual who is a citizen or national of a foreign nation,

(B) any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any foreign nation, and

(C) any department, agency, or other instrumentality of any foreign nation and any officer, employee, or agent of any such instrumentality.

(6) The term "native bird" means any member, at any stage of its life cycle (including eggs), of any species of the class Aves which is designated as a native species by the Director under section 2405(b)(1) of this title, and includes any part of any such member.

(7) The term "native mammal" means any member, at any stage of its life cycle, of any species of the class Mammalia, other than any species regulated by the International Whaling Commission, which is designated as a native species by the Director under section 2405(b)(1) of this title, and includes any part of such member.

(8) The term "native plant" means any member of any species of plant at any stage of its life cycle (including seeds) which is designated as such by the Director under section 2405(b)(1) of this title, and includes any part of any such member.

(9) The term "pollutant" means any substance designated as such by the Director under section 2405(b)(6) of this title.

(10) The term "site of special scientific interest" means any area designated as such by the Director under section 2405(b)(3) of this title.

(11) The term "specially protected area" means any area designated as such by the Director under section 2405(b)(4) of this title.

(12) The term "specially protected species" means any species of native mammal or native bird designated as such by the Director under section 2405(b)(5) of this title.

(13) The term "take" means to harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, or capture, or to attempt to engage in any such conduct.

(14) The term "Treaty" means the Antarctic Treaty signed in Washington, D.C., on December 1, 1959.

(15) The term "United States" means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, including the Government of the Northern Mariana Islands.

(16) The term "United States citizen" means—

(A) any individual who is a citizen or national of the United States;

(B) any corporation, partnership, trust, association, or other legal entity existing or organized under the laws of any of the United States; and

(C) any department, agency, or other instrumentality of the Federal Government or of any State, and any officer, employee, or agent of any such instrumentality.

(Pub. L. 95–541, § 3, Oct. 28, 1978, 92 Stat. 2048.)

§ 2403. Prohibited acts

(a) In general

It is unlawful—

(1) for any United States citizen, unless authorized by regulation prescribed under this chapter or a permit issued under section 2404 of this title—

(A) to take within Antarctica any native mammal or native bird,

(B) to collect within any specially protected area any native plant,

(C) to introduce into Antarctica any animal or plant that is not indigenous to Antarctica,

(D) to enter any specially protected area or site of special scientific interest, or

(E) to discharge, or otherwise to dispose of, any pollutant within Antarctica;

(2) for any United States citizen wherever located, or any foreign person while within the United States, unless authorized by regulation prescribed under this chapter or a permit issued under section 2404 of this title—

(A) to possess, sell, offer for sale, deliver, receive, carry, transport, or ship by any means whatsoever, or

(B) to import into the United States, to export from the United States, or to attempt to so import or export,

any native mammal or native bird taken in Antarctica or any native plant collected in any specially protected area;

(3) for any United States citizen wherever located, or any foreign person while within the United States, to violate any regulation prescribed under this chapter; or

(4) for any person, whether or not a United States citizen, to violate any term or condition of any permit issued under section 2404 of this title.

No act described in paragraphs (1) through (4) shall be unlawful if committed, under emergency circumstances, to prevent the loss of human life.

(b) Exception

Subsection (a) of this section shall not apply to—

(1) any native mammal, native bird, or native plant which is held in captivity on October 28, 1978; or

(2) any offspring of any such mammal, bird, or plant.

With respect to any act prohibited by subsection (a) of this section which occurs after the 180th day after October 28, 1978, there shall be a rebuttable presumption that the native mammal, native bird, or native plant involved in such act was not held in captivity on such date or was not an offspring referred to in paragraph (2).

(Pub. L. 95–541, § 4, Oct. 28, 1978, 92 Stat. 2049.)

Section Referred to in Other Sections

This section is referred to in sections 2404, 2405, 2407, 2408, 2409 of this title.

§ 2404. Permits

(a) In general

The Director may issue permits which authorize acts otherwise prohibited by section 2403(a) of this title.

(b) Applications for permits

(1) Applications for permits under this section shall be made in such manner and form, and shall contain such information, as the Director shall by regulation prescribe.

(2) The Director shall publish notice in the Federal Register of each application which is made for a permit under this section. The notice shall invite the submission by interested parties, within 30 days after the date of publication of the notice, of written data, comments, or views with respect to the application. Information received by the Director as a part of any application shall be available to the public as a matter of public record.

(c) Action by appropriate Secretaries on certain permit applications

(1) If the Director receives an application for a permit under this section requesting authority to undertake any action with respect to—

(A) any native mammal which is a marine mammal within the meaning of section 1362(5) of this title;

(B) any native mammal, native bird, or native plant which is an endangered species or threatened species under the Endangered Special Act of 1973 (16 U.S.C. 1531 et seq.); or

(C) any native bird which is protected under the Migratory Bird Treaty Act (16 U.S.C. 701 et seq.);

the Director shall submit a copy of the application to the Secretary of Commerce or to the Secretary of the Interior, as appropriate (hereinafter in this subsection referred to respectively as the "appropriate Secretary").

(2) After receiving a copy of any application from the Director under paragraph (1) the appropriate Secretary shall promptly determine, and notify the Director, whether or not any action proposed in the application also requires a permit or other authorization under any law administered by the appropriate Secretary.

(3) If the appropriate Secretary notifies the Director that any action proposed in the application requires a permit or other authorization under any law administered by the appropriate Secretary, the Director may not issue a permit under this section with respect to such action unless such other required permit or authorization is issued by the appropriate Secretary and a copy thereof is submitted to the Director. The issuance of any permit or other authorization by the appropriate Secretary for the carrying out of any action with respect to any native mammal, native bird, or native plant shall not be deemed to entitle the applicant concerned to the issuance by the Director of a permit under this section.

(d) Issuance of permits

As soon as practicable after receiving any application for a permit under this section, or, in the case of any application to which subsection (c) of this section applies, as soon as practicable after the applicable requirements of such subsection are complied with, the Director shall issue, or deny the issuance of, the permit. Within 10 days after the date of the issuance or denial of a permit under this subsection, the Director shall publish notice of the issuance or denial in the Federal Register.

(e) Terms and conditions of permits

(1) Each permit issued under this section shall—

(A) if applicable, specify—

(i) the number and species of native mammals, native birds, or native plants to which the permit applies,

(ii) if any such mammal or bird is authorized to be taken, transported, carried, or shipped, the manner (which manner must be determined by the Director to be humane) in which such action must be accomplished and the area in which such taking must occur, and

(iii) if any such plant is authorized to be collected, the location and manner in which it must be collected;

(B) the period during which the permit is valid; and

(C) such other terms and conditions as the Director deems necessary and appropriate to ensure that any act authorized under the permit is carried out in a manner consistent with the purpose of this chapter, the criteria set forth in paragraph (2), if applicable, and the regulations prescribed under this chapter.

(2) The terms and conditions imposed by the Director in any permit issued under this section that authorizes any of the following acts shall be consistent with the following criteria:

(A) Permits authorizing the taking within Antarctica (other than within any specially protected area) of any native mammal or native bird (other than a specially protected species of any such mammal or bird)—

(i) may be issued only for the purpose of providing—

(I) specimens for scientific study or scientific information, or

(II) specimens for museums, zoological gardens, or other educational or cultural institutions or uses; and

(ii) shall ensure, as far as possible, that—

(I) no more native mammals and native birds are taken in any year than can normally be replaced by net natural reproduction in the following breeding season, and

(II) the variety of species and the balance of the natural ecological systems with Antarctica and maintained.

(B) Permits authorizing the taking of specially protected species may be issued only if—

(i) there is a compelling scientific purpose for such taking; and

(ii) the actions allowed under any such permit will not jeopardize any existing natural ecological system, or the survival, of such species.

(C) Permits authorizing the entry into any specially protected area—

(i) may be issued only if—

(I) there is a compelling scientific purpose for such entry which cannot be served elsewhere, and

(II) the actions allowed under any such permit will not jeopardize the natural ecological system existing in such area; and

(ii) shall not allow the operation of any surface vehicle within such area.

(D) Permits authorizing the entry into any site of special scientific interest shall be consistent with the management plan prescribed under section 2405(b)(3) of this title for such site.

(e)[1] Judicial review

Any applicant for a permit may obtain judicial review of the terms and conditions of any permit issued by the Director under this section or of the refusal of the Director to issue such a permit. Such review, which shall be pursuant to chapter 7 of title 5, may be initiated by filing a petition for review in the United States district court for the district wherein the applicant for a permit resides, or has his principal place of business, or in the United States District Court for the District of Columbia, within 60 days after the date on which such permit is issued or denied.

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[1] So in original. Two subsecs. (e) have been designated by Pub. L. 95-541, § 5.

(f) Modification, suspension, and revocation

(1) The Director may modify, suspend, or revoke, in whole or part, any permit issued under this section—

(A) in order to make the permit consistent with any change made after the date of issuance of the permit, to any regulation prescribed under section 2405 of this title;

(B) if there is any change in conditions which makes the permit inconsistent with the purpose of this chapter; or

(C) in any case in which there has been any violation of any term or condition of the permit, any regulation prescribed under this chapter, or any provision of this chapter.

(2) Whenever the Director proposes any modification, suspension, or revocation of a permit under this subsection, the permittee shall be afforded opportunity, after due notice, for a hearing by the Director with respect to such proposed modification, suspension, or revocation. If a hearing is requested, the action proposed by the Director shall not take effect before a decision is issued by him after the hearing, unless the proposed action is taken by the Director to meet an emergency situation. Any action taken by the Director after such a hearing is subject to judicial review on the same basis as is provided for with respect to permit applications under subsection (e) of this section.

(3) Notice of the modification, suspension, or revocation of any permit by the Director shall be published in the Federal Register within 10 days from the date of the Director's decision.

(g) Permit fees

The Director may establish and charge fees for processing applications for permits under this section. The amount of such fees shall be commensurate with the administrative costs incurred by the Director in undertaking such processing.

(Pub. L. 95-541, § 5, Oct. 28, 1978, 92 Stat. 2050.)

REFERENCES IN TEXT

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), referred to in subsec. (c)(1)(B), is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Migratory Bird Treaty Act (16 U.S.C. 701 et seq.), referred to in subsec. (c)(1)(C), is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2403, 2405 of this title.

§ 2405. Regulations

(a) In general

The Director, after consultation with the Secretary of State and other appropriate Federal officials, shall prescribe such regulations as are necessary and appropriate to implement the provisions of this chapter.

(b) Specific regulations

The regulations required to be prescribed under subsection (a) of this section shall include, but shall not be limited to, regulations which—

(1) designate, as native species—

(A) each species of the class Aves,

(B) each species of the class Mammalia, and

(C) each species of plant,

which is indigenous to Antarctica or occurs in Antarctica through natural agencies of dispersal;

(2) specify those actions which must, and those actions which must not, be taken within Antarctica in order to protect, in accordance with the applicable provisions of the Agreed Measures, members of each native species designated under paragraph (1);

(3) identify, as a site or special scientific interest, each area approved by the United States in accordance with Recommendation VIII-3 of the Eighth Antarctic Treaty Consultative Meeting as having unique value for scientific investigation and needing protection from interference, and prescribe a management plan for such site which is consistent with any management plan approved by the United States for such site in accordance with such Recommendation;

(4) identify, as a specially protected area, each area designated for special protection under the Agreed Measures because of its outstanding scientific or ecological interest;

(5) designate, as a specially protected species, any native species of mammal or bird which is approved by the United States for special protection under the Agreed Measures;

(6) designate as a pollutant any substance which the Director finds liable, if the substance is introduced into Antarctica, to create hazards to human health, to harm living resources or marine life, to damage amenities, or to interfere with other legitimate uses of Antarctica;

(7) specify those actions which must, and those actions which must not, be taken in order to prevent or control the discharge or other disposal of pollutants, from any source within Antarctica;

(8) designate those animals and plants, not indigenous to Antarctica, which either may, or may not, be introduced into Antarctica, and specify those control measures which must be observed with respect to any such animals or plants which are allowed to be so introduced;

(9) specify the emergency circumstances with respect to which the exclusion set forth in the last sentence of section 2403(a) of this title applies; and

(10) set forth the form, content, and manner of filing, if applicable, of all notices, reports, declarations, or other documentation which may be required incident to the carrying out of any act for which a permit is required under section 2404 of this title.

(Pub. L. 95-541, § 6, Oct. 28, 1978, 92 Stat. 2053.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2402, 2404 of this title.

§ 2406. Notification of travel to Antarctica

The Secretary of State shall prescribe such regulations as may be necessary and appropriate to implement, with respect to United States citizens, paragraph 5 of Article VII of the Treaty pertaining to the filing of advance notifications of expeditions to, and within, Antarctica. For purposes of this section, the term "United States citizen" shall include any foreign person who organizes within the United States any expedition which will proceed to Antarctica from the United States.

(Pub. L. 95-541, § 7, Oct. 28, 1978, 92 Stat. 2054.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2407 of this title.

§ 2407. Civil penalties

(a) Assessment of penalties

Any person who is found by the Director, after notice and opportunity for a hearing in accordance with subsection (b) of this section, to have committed any act prohibited by section 2403(a) of this title or to have violated any regulation prescribed under section 2406 of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of any civil penalty shall be assessed by the Director by written notice. Any civil penalty assessed under this subsection may be remitted or mitigated by the Director.

(b) Hearings

Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5. For the purposes of conducting any such hearing, the Director may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Director or to appear and produce documents before the Director, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) Review

Upon the failure of any person against whom a civil penalty is assessed under subsection (a) of this section to pay such penalty, the Director may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Director and shall sustain the decision of the Director if it is supported by substantial evidence on the record considered as a whole.

(d) Penalties under other laws

The assessment of a civil penalty under subsection (a) of this section for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.], the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], and the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.].

(Pub. L. 95-541, § 8, Oct. 28, 1978, 92 Stat. 2054.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsec. (d), is Pub. L. 92-522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (d) is Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Migratory Bird Treaty Act, referred to in subsec. (d) is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

§ 2408. Criminal offenses

(a) Offenses

A person is guilty of an offense if he willfully commits any act prohibited by section 2403(a) of this title.

(b) Punishment

Any offense described in subsection (a) of this section is punishable by a fine of $10,000, or imprisonment for not more than one year, or both.

(c) Offenses under other laws

A conviction under subsection (a) of this section for any act shall not be deemed to preclude a conviction for such act under any other law, including, but not limited to, the Marine Mammal Protection Act of 1972 [16 U.S.C. 1361 et seq.], the Endangered Species Act of 1973 [16 U.S.C. 1531 et seq.], and the Migratory Bird Treaty Act [16 U.S.C. 703 et seq.].

(Pub. L. 95-541, § 9, Oct. 28, 1978, 92 Stat. 2054.)

REFERENCES IN TEXT

The Marine Mammal Protection Act of 1972, referred to in subsec. (c), is Pub. L. 92-522, Oct. 21, 1972, 86 Stat. 1027, as amended, which is classified generally to chapter 31 (§ 1361 et seq.) of this title. For complete

classification of this Act to the Code, see Short Title note set out under section 1361 of this title and Tables.

The Endangered Species Act of 1973, referred to in subsec. (c) is Pub.L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

The Migratory Bird Treaty Act, referred to in subsec. (c) is act July 3, 1918, ch. 128, 40 Stat. 755, as amended, which is classified generally to subchapter II (§ 703 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 710 of this title and Tables.

§ 2409. Enforcement

(a) Responsibility

The provisions of this chapter and of any regulation prescribed, or permit issued, under this chapter shall be enforced by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of Interior, and the Secretary of the department in which the Coast Guard is operating. The Director and such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other Federal agency or any State agency in the performance of such duties.

(b) Powers of authorized officers

Any officer who is authorized (by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with the Director or any such Secretary under subsection (a) of this section) to enforce the provisions of this chapter and of any regulation or permit issued under this chapter may—

(1) secure, execute, and serve any order, warrant, subpena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, or conveyance where there is reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 2403(a) of this title;

(3) seize without warrant any evidentiary item where there is reasonable grounds to believe that a person has committed or is attempting to commit any such act;

(4) offer and pay rewards for services or information which may lead to the apprehension of violators of such provisions;

(5) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(6) detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States; and

(7) make an arrest with or without a warrant with respect to any act prohibited by section 2403(a) of this title if such officer has reasonable grounds to believe that the person to be arrested is committing such act in his presence or view, or has committed such act.

(c) Seizure

Any property or item seized pursuant to subsection (b) of this section shall be held by any person authorized by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating pending the disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such property or item; except that such authorized person may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) Forfeiture

(1) Any animal or plant with respect to which an act prohibited by section 2403(a) of this title is committed shall be subject to forfeiture to the United States.

(2) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used in the commission of any act prohibited by section 2403(a) of this title shall be subject to forfeiture to the United States.

(3) Upon the forfeiture to the United States of any property or item described in paragraph (1) or (2), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a manner, consistent with the purposes of the chapter, as may be prescribed by regulation; except that no native mammal, native bird, or native plant may be disposed of by sale to the public.

(e) Application of customs laws

All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provision of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this chapter, also be exercised or performed by the Director, the Secretary of Commerce, the Secretary of the Interior, or the Secretary of the department in which the Coast Guard is operating, or by such persons as each may designate.

(f) Regulations

The Director, the Secretary of the Treasury, the Secretary of Commerce, the Secretary of the Interior, and the Secretary of the department in which the Coast Guard is operating may prescribe such regulations as may be appropriate to enforce the provisions of this chapter and of any regulation prescribed or permit issued under this chapter, and charge reasonable fees for the expenses of the United States incurred in carrying out inspections and in

transferring, boarding, handling, or storing native mammals, native birds, native plants, animals and plants not indigenous to Antarctica, and other evidentiary items seized or forfeited under this chapter.

(Pub. L. 95-541, § 10, Oct. 28, 1978, 92 Stat. 2055.)

REFERENCES IN TEXT

The customs laws, referred to in subsec. (e), are classified generally to Title 19, Customs Duties.

§ 2410. Jurisdiction of courts

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter or of any regulation prescribed, or permit issued, under this chapter.

(Pub. L. 95-541, § 11, Oct. 28, 1978, 92 Stat. 2056.)

§ 2411. Federal agency cooperation

Each Federal department or agency whose activities affect Antarctica shall utilize, to the maximum extent practicable, its authorities in furtherance of the purposes of this chapter, and shall cooperate with the Director in carrying out the purposes of this chapter.

(Pub. L. 95-541, § 12, Oct. 28, 1978, 92 Stat. 2056.)

§ 2412. Relationship to existing treaties

Nothing in this chapter shall be construed as contravening or superseding the provisions of any international treaty, convention, or agreement, if such treaty, convention, or agreement is in force with respect to the United States on October 28, 1978, or of any statute which implements any such treaty, convention, or agreement.

(Pub. L. 95-541, § 13, Oct. 28, 1978, 92 Stat. 2056.)

CHAPTER 45—URBAN PARK AND RECREATION RECOVERY PROGRAM [NEW]

Sec.

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§ 2501. Congressional findings

The Congress finds that—

(a) the quality of life in urban areas is closely related to the availability of fully functional park and recreation systems including land, facilities, and service programs;

(b) residents of cities need close-to-home recreational opportunities that are adequate to specialized urban demands, with parks and facilities properly located, developed, and well maintained;

(c) the greatest recreational deficiencies with respect to land, facilities, and programs are found in many large cities, especially at the neighborhood level;

(d) inadequate financing of urban recreation programs due to fiscal difficulties in many large cities has led to the deterioration of facilities, nonavailability of recreation services, and an inability to adapt recreational programs to changing circumstances; and

(e) there is no existing Federal assistance program which fully addresses the needs for physical rehabilitation and revitalization of these park and recreation systems.

(Pub. L. 95-625, title X, § 1002, Nov. 10, 1978, 92 Stat. 3538.)

SHORT TITLE

Section 1001 of Pub. L. 95-625 provided that: "This title [enacting this chapter] may be cited as the 'Urban Park and Recreation Recovery Act of 1978'."

§ 2502. Congressional statement of purpose; short-term complementary program authorization; terms and conditions

The purpose of this chapter is to authorize the Secretary to establish an urban park and recreation recovery program which would provide Federal grants to economically hard-pressed communities specifically for the rehabilitation of critically needed recreation areas, facilities, and development of improved recreation programs for a period of five years. This short-term program is intended to complement existing Federal programs such as the Land and Water Conservation Fund and Community Development Grant Programs by encouraging and stimulating local governments to revitalize their park and recreation systems and to make long-term commitments to continuing maintenance of these systems. Such assistance shall be subject to such terms and conditions as the Secretary considers appropriate and in the public interest to carry out the purposes of this chapter.

(Pub. L. 95-625, title X, § 1003, Nov. 10, 1978, 92 Stat. 3539.)

§ 2503. Definitions

When used in this chapter the term—

(a) "recreational areas and facilities" means indoor or outdoor parks, buildings, sites, or other facilities which are dedicated to recreation purposes and administered by public or private nonprofit agencies to serve the recreation needs of community residents. Emphasis shall be on public facilities readily accessible to residential neighborhoods, including multiple-use community centers which have recreation as one of their primary purposes, but excluding major sports arenas, exhibition areas, and conference halls used primarily for commercial sports, spectator, or display activities;

(b) "rehabilitation grants" means matching capital grants to local governments for the purpose of rebuilding, remodeling, expanding, or developing existing outdoor or indoor recreation areas and facilities, including improvements in park landscapes, buildings, and support facilities, but excluding routine maintenance and upkeep activities;

(c) "innovation grants" means matching grants to local governments to cover costs of personnel, facilities, equipment, supplies, or services designed to demonstrate innovative and cost-effective ways to augment park and recreation opportunities at the neighborhood level and to address common problems related to facility operations and improved delivery of recreation service, and which shall exclude routine operation and maintenance activities;

(d) "recovery action program grants" means matching grants to local governments for development of local park and recreation recovery action programs to meet the requirements of this chapter. Such grants will be for resource and needs assessment, coordination, citizen involvement and planning, and program development activities to encourage public definition of goals, and develop priorities and strategies for overall recreation system recovery;

(e) "maintenance" means all commonly accepted practices necessary to keep recreation areas and facilities operating in a state of good repair and to protect them from deterioration resulting from normal wear and tear;

(f) "general purpose local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of a State, including the District of Columbia, and insular areas;

(g) "special purpose local government" means any local or regional special district, public-purpose corporation or other limited political subdivision of a State, including but not limited to park authorities; park, conservation, water or sanitary districts; and school districts;

(h) "private, nonprofit agency" means a community-based, non-profit organization, corporation, or association organized for purposes of providing recreational, conservation, and educational services directly to urban residents on either a neighborhood or communitywide basis through voluntary donations, voluntary labor, or public or private grants;

(i) "State" means any State of the United States or any instrumentality of a State approved by the Governor; the Commonwealth of Puerto Rico, and insular areas; and

(j) "insular areas" means Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.

(Pub. L. 95-625, title X, § 1004, Nov. 10, 1978, 92 Stat. 3539.)

§ 2504. Federal assistance grants

(a) General purpose local governments eligible for assistance; basis; publication in Federal Register: list of eligibles, criteria of eligibility

Eligibility of general purpose local governments for assistance under this chapter shall be based upon need as determined by the Secretary. Within one hundred and twenty days after November 10, 1978, the Secretary shall publish in the Federal Register, a list of the local governments eligible to participate in this program, to be accompanied by a discussion of criteria used in determining eligibility. "Such criteria shall be based upon factors which the Secretary determines are related to deteriorated recreational facilities or systems, and physical and economic distress.

(b) Other general purpose local governments eligible for assistance; limitation of funds

Notwithstanding the list of eligible local governments established in accordance with subsection (a) of this section, the Secretary is also authorized to establish eligibility, at his discretion and in accord with the findings and purpose of this chapter, to other general purpose local governments in standard metropolitan statistical areas as defined by the census: *Provided*, That grants to these discretionary applicants do not exceed in the aggregate 15 per centum of funds appropriated under this chapter for rehabilitation, innovation, and recovery action program grants.

(c) Priority criteria for project selection and approval

The Secretary shall also establish priority criteria for project selection and approval which consider such factors as—

(1) population;

(2) condition of existing recreation areas and facilities;

(3) demonstrated deficiencies in access to neighborhood recreation opportunities, particularly for minority, and low- and moderate-income residents;

(4) public participation in determining rehabilitation or development needs;

(5) the extent to which a project supports or complements target activities undertaken as part of a local government's overall community development and urban revitalization program;

(6) the extent to which a proposed project would provide employment opportunities for minorities, youth, and low- and moderate-income residents in the project neighborhood and/or would provide for participation of neighborhood, nonprofit or tenant organizations in the proposed rehabilitation activity

or in subsequent maintenance, staffing, or supervision of recreation areas and facilities; and

(7) the amount of State and private support for a project as evidenced by commitments of non-Federal resources to project construction or operation.

(Pub. L. 95–625, title X, § 1005, Nov. 10, 1978, 92 Stat. 3540.)

§ 2505. Federal implementation grants; rehabilitation and innovation grants; transfer of grants; payments; modification of projects; special considerations

(a) The Secretary is authorized to provide 70 per centum matching rehabilitation and innovative grants directly to eligible general purpose local governments upon his approval of applications therefor by the chief executives of such governments.

(1) At the discretion of such applicants, and if consistent with an approved application, rehabilitation and innovation grants may be transferred in whole or in part to independent special purpose local governments, private nonprofit agencies or county or regional park authorities: *Provided*, That assisted recreation areas and facilities owned or managed by them offer recreation opportunities to the general population within the jurisdictional boundaries of an eligible applicant.

(2) Payments may be made only for those rehabilitation or innovative projects which have been approved by the Secretary. Such payments may be made from time to time in keeping with the rate of progress toward the satisfactory completion of a project, except that the Secretary may, when appropriate, make advance payments on approved rehabilitation and innovative projects in an amount not to exceed 20 per centum of the total project cost.

(3) The Secretary may authorize modification of an approved project only when a grantee has adequately demonstrated that such modification is necessary because of circumstances not foreseeable at the time a project was proposed.

(b) Innovation grants should be closely tied to goals, priorities, and implementation strategies expressed in local park and recreation recovery action programs, with particular regard to the special considerations listed in section 2506(b)(2) of this title.

(Pub. L. 95–625, title X, § 1006, Nov. 10, 1978, 92 Stat. 3541.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2507, 2512 of this title.

§ 2506. Local commitments to system recovery and maintenance

(a) Recovery action programs; preliminary action programs; five-year recovery action programs; continuing planning process

As a requirement for project approval, local governments applying for assistance under this chapter shall submit to the Secretary evidence of their commitments to ongoing planning, rehabilitation, service, operation, and maintenance programs for their park and recreation systems. These commitments will be expressed in local park and recreation recovery action programs which maximize coordination of all community resources, including other federally supported urban development and recreation programs. During an initial interim period to be established by regulations under this chapter, this requirement may be satisfied by local government submissions of preliminary action programs which briefly define objectives, priorities, and implementation strategies for overall system recovery and maintenance and commit the applicant to a scheduled program development process. Following this interim period, all local applicants shall submit to the Secretary, as a condition of eligibility, a five-year action program for park and recreation recovery that satisfactorily demonstrate:

(1) systematic identification of recovery objectives, priorities, and implementation strategies;

(2) adequate planning for rehabilitation of specific recreation areas and facilities, including projections of the cost of proposed projects;

(3) capacity and commitment to assure that facilities provided or improved under this chapter shall thereafter continue to be adequately maintained, protected, staffed, and supervised;

(4) intention to maintain total local public outlays for park and recreation purposes at levels at least equal to those in the year preceding that in which grant assistance is sought beginning in fiscal year 1980 except in any case where a reduction in park and recreation outlays is proportionate to a reduction in overall spending by the applicant; and

(5) the relationship of the park and recreation recovery program to overall community development and urban revitalization efforts.

Where appropriate, the Secretary may encourage local governments to meet action program requirements through a continuing planning process which includes periodic improvements and updates in action program submissions to eliminate identified gaps in program information and policy development.

(b) Recovery action program special considerations

Action programs shall address, but are not limited to the following considerations:

(1) Rehabilitation of existing recreational sites and facilities, including general system-wide renovation; special rehabilitation requirements for recreational sites and facilities in areas of high population concentration and economic distress; and restoration of outstanding or unique structures, landscaping, or similar features in parks of historical or architectural significance.

(2) Local commitments to innovative and cost-effective programs and projects at the neighborhood level to augment recovery of park and recreation systems, including but not limited to recycling of abandoned schools and other public buildings for recreational purposes; multiple use of operating educational and other public buildings; purchase of recreation services on a contractual basis; use of mobile facilities and recreational, cultural,

and educational programs or other innovative approaches to improving access for neighborhood residents; integration of recovery program with federally assisted projects to maximize recreational opportunities through conversion of abandoned railroad and highway rights-of-way, waterfront, and other redevelopment efforts and such other federally assisted projects as may be appropriate; conversion of recreation use of street space, derelict land, and other public lands not now designated for neighborhood recreational use; and use of various forms of compensated and uncompensated land regulation, tax inducements, or other means to encourage the private sector to provide neighborhood park and recreation facilities and programs.

The Secretary shall establish and publish in the Federal Register requirements for preparation, submission, and updating of local park and recreation recovery action programs.

(c) Recovery action program grants

The Secretary is authorized to provide up to 50 per centum matching grants to eligible local applicants for program development and planning specifically to meet the objectives of this chapter.

(Pub. L. 95-625, title X, § 1007, Nov. 10, 1978, 92 Stat. 3541.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2505, 2508, 2512 of this title.

§ 2507. State action incentive; Federal implementation grants, increase

The Secretary is authorized to increase Federal implementation grants authorized in section 2505 of this title by providing an additional match equal to the total match provided by a State of up to 15 per centum of total project costs. In no event may the Federal matching amount exceed 85 per centum of total project cost. The Secretary shall further encourage the States to assist him in assuring that local recovery plans and programs are adequately implemented by cooperating with the Department of the Interior in monitoring local park and recreation recovery plans and programs and in assuring consistency of such plans and programs, where appropriate, with State recreation policies as set forth in statewide comprehensive outdoor recreation plans.

(Pub. L. 95-625, title X, § 1008, Nov. 10, 1978, 92 Stat. 3542.)

§ 2508. Matching requirements; non-Federal share of project costs

The non-Federal share of project costs assisted under this chapter may be derived from general or special purpose State or local revenues. State categorical grants, special appropriations by State legislatures, donations of land, buildings, or building materials and/or in-kind construction, technical, and planning services. No moneys from the Land and Water Conservation Fund (77 Stat. 49), as amended [16 U.S.C. 460*l*-5), or from any other Federal grant program other than general revenue sharing and the community development block grant programs shall be used to match Federal grants under this program. Reasonable local costs of action program development to meet the requirements of section 2506(a) of this title may be used as part of the local match only when local applicants have not received program development grants under the authority of section 2506(c) of this title. The Secretary shall encourage States and private interests to contribute, to the maximum extent possible, to the non-Federal share of project costs.

(Pub. L. 95-625, title X, § 1009, Nov. 10, 1978, 92 Stat. 3543.)

REFERENCES IN TEXT

The Land and Water Conservation Fund (77 Stat. 49), as amended, referred to in text, probably means the Land and Water Conservation Fund established by Pub. L. 88-578, title I, § 2, Sept. 3, 1964, 78 Stat. 897, which enacted section 460*l*-5 of this title.

§ 2509. Conversion of recreation property

No property improved or developed with assistance under this chapter shall, without the approval of the Secretary, be converted to other than public recreation uses. The Secretary shall approve such conversion only if he finds it to be in accord with the current local park and recreation recovery action program and only upon such conditions as he deems necessary to assure the provision of adequate recreation properties and opportunities of reasonably equivalent location and usefulness.

(Pub. L. 95-625, title X, § 1010, Nov. 10, 1978, 92 Stat. 3543.)

§ 2510. Coordination of program

The Secretary shall (a) coordinate the urban park and recreation recovery program with the total urban recovery effort and cooperate to the fullest extent possible with other Federal departments and agencies and with State agencies which administer programs and policies affecting urban areas, including but not limited to, programs in housing, urban development, natural resources management, employment, transportation, community services, and voluntary action; (b) encourage maximum coordination of the program between appropriate State agencies and local applicants; and (c) require that local applicants include provisions for participation of community and neighborhood residents and for public-private coordination in recovery planning and project selection.

(Pub. L. 95-625, title X, § 1011, Nov. 10, 1978, 92 Stat. 3543.)

§ 2511. Audit requirements; recordkeeping

Each recipient of assistance under this chapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition of project undertakings in connection with which assistance under this chapter is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit. The Secretary, and

the Comptroller General of the United States, or their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this chapter.

(Pub. L. 95–625, title X, § 1012, Nov. 10, 1978, 92 Stat. 3543.)

§ 2512. Authorization of appropriations

There are hereby authorized to be appropriated for the purposes of this chapter, not to exceed $150,000,000 for each of the fiscal years 1979 through 1982, and $125,000,000 in fiscal year 1983, such sums to remain available until expended. Not more than 3 per centum of the funds authorized in any fiscal year may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 2506(a) and 2506(c) of this title, and not more than 10 per centum may be used for innovation grants pursuant to section 2505 of this title. Grants made under this chapter for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated in any fiscal year. For the authorizations made in this subsection, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Notwithstanding any other provision of this Act, or any other law, or regulation, there is further authorized to be appropriated $250,000 for each of the fiscal years 1979 through 1983, such sums to remain available until expended, to each of the insular areas. Such sums will not be subject to the matching provisions of this section, and may only be subject to such conditions, reports, plans, and agreements, if any, as determined by the Secretary.

(Pub. L. 95–625, title X, § 1013, Nov. 10, 1978, 92 Stat. 3544.)

REFERENCES IN TEXT

This Act, referred to in text, means Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, known as the National Parks and Recreation Act of 1978. For complete classification of the Act to the Code, see Short Title of 1978 Amendment note set out under section 1 of this title and Tables.

CODIFICATION

In text "section 2505 of this title" read in the original "section 6 of this title" and was editorially translated as section 2505 of this title to reflect the probable intent of Congress in view of the subject matter of section 2505 which relates to innovative grants.

§ 2513. Limitation of use of funds

No funds available under this chapter shall be used for the acquisition of land or interests in land.

(Pub. L. 95–625, title X, § 1014, Nov. 10, 1978, 92 Stat. 3544.)

§ 2514. Sunset and reporting provisions; reports to Congress

(a) Within ninety days of the expiration of this authority, the Secretary shall report to the Congress on the overall impact of the urban park and recreation recovery program.

(b) On December 31, 1979, and on the same date in each year that the recovery program is funded, the Secretary shall report to the Congress on the annual achievements of the innovation grant program, with emphasis on the nationwide implications of successful innovation projects.

(Pub. L. 95–625, title X, § 1015, Nov. 10, 1978, 92 Stat. 3544.)

CHAPTER 46—PUBLIC UTILITY REGULATORY POLICIES [NEW]

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 6807.

§ 2601. Findings

The Congress finds that the protection of the public health, safety, and welfare, the preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require—

(1) a program providing for increased conservation of electric energy, increased efficiency in the use of facilities and resources by electric utilities, and equitable retail rates for electric consumers,

(2) a program to improve the wholesale distribution of electric energy, the reliability of electric service, the procedures concerning consideration of wholesale rate applications before the Federal Energy Regulatory Commission, the participation of the public in matters before the Commission, and to provide other measures with respect to the regulation of the wholesale sale of electric energy,

(3) a program to provide for the expeditious development of hydroelectric potential at existing small dams to provide needed hydroelectric power,

(4) a program for the conservation of natural gas while insuring that rates to natural gas consumers are equitable,

(5) a program to encourage the development of crude oil transportation systems, and

(6) the establishment of certain other authorities as provided in title VI of this Act.

(Pub. L. 95-617, § 2, Nov. 9, 1978, 92 Stat. 3119.)

REFERENCES IN TEXT

This Act, referred to in par. (6), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, known as the Public Utility Regulatory Policies Act of 1978. Title VI of this Act enacted sections 824a-4 and 2645 of this title and sections 717x to 717z of Title 15, Commerce and Trade, amended section 717f of Title 15 and sections 1311, 1312, and 1314 to 1316 of Title 30, Mineral Lands and Mining, and enacted provisions set out as a note under section 2621 of this title. For complete classification of this Act to the Code, see Short Title note set out under this section and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95-617 which comprises this chapter.

SHORT TITLE

Section 1 of Pub. L. 95-617 provided that: "This Act [which enacted this chapter, and sections 823a, 824a-1 to 824a-4, 824i to 824k, 825g-1, and 2701 to 2708 of this title, sections 717x to 717z and 3201 to 3211 of Title 15, Commerce and Trade, section 6808 of Title 42, The Public Health and Welfare, and sections 2001 to 2012 of Title 43, Public Lands, amended sections 796, 824, 824a, 824d, and 825d of this title, section 717f of Title 15, sections 1311, 1312, and 1314 to 1316 of Title 30, Mineral Lands and Mining, and sections 6801 to 6807 of Title 42, and enacted provisions set out as notes under sections 824, 824a, 824d, 825d, and 2621 of this title] may be cited as the 'Public Utility Regulatory Policies Act of 1978'."

§ 2602. Definitions

As used in this Act, except as otherwise specifically provided—

(1) The term "antitrust laws" includes the Sherman Antitrust Act (15 U.S.C. 1 and following), the Clayton Act (15 U.S.C. 12 and following), the Federal Trade Commission Act (15 U.S.C. 14[41] and following), the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(2) The term "class" means, with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use.

(3) The term "Commission" means the Federal Energy Regulatory Commission.

(4) The term "electric utility" means any person, State agency, or Federal agency, which sells electric energy.

(5) The term "electric consumer" means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(6) The term "evidentiary hearing" means—

(A) in the case of a State agency, a proceeding which (i) is open to the public, (ii) includes notice to participants and an opportunity for such participants to present direct and rebuttal evidence and to cross-examine witnesses, (iii) includes a written decision, based upon evidence appearing in a written record of the proceeding, and (iv) is subject to judicial review;

(B) in the case of a Federal agency, a proceeding conducted as provided in sections 554, 556, and 557 of title 5; and

(C) in the case of a proceeding conducted by any entity other than a State or Federal agency, a proceeding which conforms, to the extent appropriate, with the requirements of subparagraph (A).

(7) The term "Federal agency" means an executive agency (as defined in section 105 of title 5).

(8) The term "load management technique" means any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

(9) The term "nonregulated electric utility" means any electric utility other than a State regulated electric utility.

(10) The term "rate" means (A) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of electric energy to an electric consumer.

(11) The term "ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

(12) The term "rate schedule" means the designation of the rates which an electric utility charges for electric energy.

(13) The term "sale" when used with respect to electric energy includes any exchange of electric energy.

(14) The term "Secretary" means the Secretary of Energy.

(15) The term "State" means a State, the District of Columbia, and Puerto Rico.

(16) The term "State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

(17) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(18) The term "State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

(Pub. L. 95-617, § 3, Nov. 9, 1978, 92 Stat. 3119.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Sherman Antitrust Act (15 U.S.C. 1 and following), referred to in par. (1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act (15 U.S.C. 12 and following), referred to in subsec. (b)(2), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 14 and following), referred to in par. (1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Wilson Tariff Act (15 U.S.C. 8 and 9), referred to in par. (1), is sections 73 to 77 of act Aug. 27, 1894, ch. 349, 28 Stat. 570. Sections 73 to 76 enacted sections 8 to 11 of Title 15, Commerce and Trade. Section 77 of said Act was not classified to the Code. For complete classification of this Act to the Code, see Short Title note under section 8 of Title 15 and Tables.

The Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A), referred to in par. (1), is act June 19, 1936, ch. 592, 49 Stat. 1526, as amended, popularly known as the Robinson-Patman Antidiscrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95-617 which comprises this chapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796, 2627 of this title; title 42 section 6807.

§ 2603. Relationship to antitrust laws

Nothing in this Act or in any amendment made by this Act affects—

(1) the applicability of the antitrust laws to any electric utility or gas utility (as defined in section 3202 of title 15), or

(2) any authority of the Secretary or of the Commission under any other provision of law (including the Federal Power Act [16 U.S.C. 791a et seq.] and the Natural Gas Act [15 U.S.C. 717 et seq.]) respecting unfair methods of competition or anticompetitive acts or practices.

(Pub. L. 95-617, § 4, Nov. 9, 1978, 92 Stat. 3120.)

REFERENCES IN TEXT

This Act, referred to in text, is act Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Federal Power Act, referred to in par.(2), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Natural Gas Act, referred to in par.(2), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95-617 which comprises this chapter.

SUBCHAPTER I—RETAIL REGULATORY POLICIES FOR ELECTRIC UTILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2633, 2634 of this title.

§ 2611. Purposes

The purposes of this chapter are to encourage—

(1) conservation of energy supplied by electric utilities;

(2) the optimization of the efficiency of use of facilities and resources by electric utilities; and

(3) equitable rates to electric consumers.

(Pub. L. 95-617, title I, § 101, Nov. 9, 1978, 92 Stat. 3120.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title", meaning title I of Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 824a-4 of this title.

§ 2612. Coverage

(a) Volume of total retail sales

This chapter applies to each electric utility in any calendar year, and to each proceeding relating to each electric utility in such year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(b) Exclusion of wholesale sales

The requirements of this chapter do not apply to the operations of an electric utility, or to proceedings respecting such operations, to the extent that such operations or proceedings relate to sales of electric energy for purposes of resale.

(c) List of covered utilities

Before the beginning of each calendar year, the Secretary shall publish a list identifying each electric utility to which this chapter applies during such calendar year. Promptly after publication of such list each State regulatory authority shall notify the Secretary of each electric utility on the list for which such State regulatory authority has ratemaking authority.

(Pub. L. 95-617, title I, § 102, Nov. 9, 1978, 92 Stat. 3121.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title", meaning title I of Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2613, 2642 of this title.

§ 2613. Federal contracts

Notwithstanding the limitation contained in section 2612(b) of this title, no contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into or renewed after November 9, 1978, may contain any provision which will have the effect of preventing the implementation of any requirement of subchapter II or III of this chapter. Any provision in any such contract which has such effect shall be null and void.

(Pub. L. 95-617, title I, § 103, Nov. 9, 1978, 92 Stat. 3121.)

SUBCHAPTER II—STANDARDS FOR ELECTRIC UTILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2613, 2631, 2632, 2633, 2634, 2642 of this title.

§ 2621. Consideration and determination respecting certain ratemaking standards

(a) Consideration and determination

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) of this section and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this chapter. For purposes of such consideration and determination in accordance with subsections (b) and (c) of this section, and for purposes of any review of such consideration and determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) Procedural requirements for consideration and determination

(1) The consideration referred to in subsection (a) of this section shall be made after public notice and hearing. The determination referred to in subsection (a) of this section shall be—

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 2622(a) of this title, and in sections 2631 and 2632 of this title, the procedures for the consideration and determination referred to in subsection (a) of this section shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) Implementation

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement any such standard determined under subsection (a) of this section to

be appropriate to carry out the purposes of this chapter, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) of this section which is determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

(d) Establishment

The following Federal standards are hereby established:

(1) Cost of service

Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 2625(a) of this title.

(2) Declining block rates

The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) Time-of-day rates

The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 2625(b) of this title.

(4) Seasonal rates

The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for such utility.

(5) Interruptible rates

Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member.

(6) Load management techniques

Each electric utility shall offer to its electric consumers such load management techniques as the State regulatory authority (or the nonregulated electric utility) has determined will—

(A) be practicable and cost-effective, as determined under section 2625(c) of this title,

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility.

(Pub. L. 95-617, title I, § 111, Nov. 9, 1978, 92 Stat. 3121.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), in the original read "this title", meaning title I of Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

STUDY CONCERNING ELECTRIC RATES OF STATE UTILITY AGENCIES

Section 601 of Pub. L. 95-617 provided that:

"(a) STUDY AND REPORT—The Secretary, in consultation with the Commission and appropriate State regulatory authorities and other persons, shall conduct a study concerning the effects of provisions of Federal law on rate established by State utility agencies. The Secretary shall submit a report to Congress containing the results of such study not later than 1 year after the date of the enactment of this Act [Nov. 9, 1978].

"(b) DEFINITION—The term 'State utility agency' means an agency of a State (not including any political subdivision or agency thereof or any public power district) which is an electric utility."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2622, 2624, 2625, 2626, 2627, 2641, 2643 of this title.

§ 2622. Obligations to consider and determine

(a) Request for consideration and determination

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility may undertake the consideration and make the determination referred to in section 2621 of this title with respect to any standard established by section 2621(d) of this title in any proceeding respecting the rates of the electric utility. Any participant or intervenor (including an intervenor referred to in section 2631 of this title) in such a proceeding may request, and shall obtain, such consideration and determination in such proceeding. In undertaking such consideration and making such determination in any such proceeding with respect to the application to any electric utility of any standard established by section 2621(d) of this title, a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility may take into account in such proceeding—

(1) any appropriate prior determination with respect to such standard—

(A) which is made in a proceeding which takes place after November 9, 1978, or

(B) which was made before such date (or is made in a proceeding pending on such date) and complies, as provided in section 2634 of this title, with the requirements of this chapter; and

(2) the evidence upon which such prior determination was based (if such evidence is referenced in such proceeding).

(b) Time limitations

(1) Not later than 2 years after November 9, 1978, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 2621 of this title, or set a hearing date for such consideration, with respect to each standard established by section 2621(d) of this title.

(2) Not later than three years after November 9, 1978, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with respect to each standard established by section 2621(d) of this title.

(c) Failure to comply

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall undertake the consideration, and make the determination, referred to in section 2621 of this title with respect to each standard established by section 2621(d) of this title in the first rate proceeding commenced after the date three years after November 9, 1978, respecting the rates of such utility if such State regulatory authority or nonregulated electric utility has not, before such date, complied with subsection (b)(2) of this section with respect to such standard.

(Pub. L. 95-617, title I, § 112, Nov. 9, 1978, 92 Stat. 3122.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(B), in the original read "this title", meaning title I of Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2621 of this title.

§ 2623. Adoption of certain standards

(a) Adoption of standards

Not later than two years after November 9, 1978, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall provide public notice and conduct a hearing respecting the standards established by subsection (b) of this section and, on the basis of such hearing, shall—

(1) adopt the standards established by subsection (b) of this section (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this chapter, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) of this section if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law.

(b) Establishment

The following Federal standards are hereby established:

(1) Master metering

To the extent determined appropriate under section 2625(d) of this title, master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this chapter.

(2) Automatic adjustment clauses

No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 2625(e) of this title.

(3) Information to consumers

Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 2625(f) of this title.

(4) Procedures for termination of electric service

No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in section 2625(g) of this title.

(5) Advertising

No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 2625(h) of this title.

(c) Procedural requirements

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility, within the two-year period specified in subsection (a) of this section, shall (1) adopt, pursuant to subsection (a) of this section, each of the standards established by subsection (b) of this section, or, (2) with respect to any such standard which is not adopted, such authority or nonregulated electric utility shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

(Pub. L. 95-617, title I, § 113, Nov. 9, 1978, 92 Stat. 3123.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b)(1), in the original read "this title", meaning title I of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6802 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2625, 2626, 2627, 2641 of this title.

§ 2624. Lifeline rates

(a) Lower rates

No provision of this chapter prohibits a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or a nonregulated electric utility from fixing, approving, or allowing to go into effect a rate for essential needs (as defined by the State regulatory authority or by the nonregulated electric utility, as the case may be) of residential electric consumers which is lower than a rate under the standard referred to in section 2621(d)(1) of this title.

(b) Determination

If any State regulated electric utility or nonregulated electric utility does not have a lower rate as described in subsection (a) of this section in effect two years after November 9, 1978, the State regulatory authority having ratemaking authority with respect to such State regulated electric utility or the nonregulated electric utility, as the case may be, shall determine, after an evidentiary hearing, whether such a rate should be implemented by such utility.

(c) Prior proceedings

Section 2634 of this title shall not apply to the requirements of this section.

(Pub. L. 95–617, title I, § 114, Nov. 9, 1978, 92 Stat. 3124.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this title", meaning title I of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

§ 2625. Special rules for standards

(a) Cost of service

In undertaking the consideration and making the determination under section 2621 of this title with respect to the standard concerning cost of service established by section 2621(d)(1) of this title, the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated electric utility). Such methods shall to the maximum extent practicable—

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer demand, and energy components of cost. In prescribing such methods, such State regulatory authority or nonregulated electric utility shall take into account the extent to which total costs to an electric utility are likely to change if—

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) Time-of-day rates

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for time-of-day rates established by section 2621(d)(3) of this title, a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each such class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates.

(c) Load management techniques

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for load management techniques established by section 2621(d)(6) of this title, a load management technique shall be determined, by the State regulatory authority or nonregulated electric utility, to be cost-effective if—

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique.

(d) Master metering

Separate metering shall be determined appropriate for any new building for purposes of section 2623(b)(1) of this title if—

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

(e) Automatic adjustment clauses

(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if—

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to such utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies.

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other items).

(3) As used in this subsection and section 2623(b) of this title, the term "automatic adjustment clause" means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

(f) Information to consumers

(1) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer—

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 2623(b)(3) of this title is adopted with respect to such electric utility, whichever last occurs, and

(B) not later than thirty days (sixty days in the case of an electric utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer (or proposal of such a change in the case of a nonregulated utility).

(2) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility shall transmit to each of its electric consumers not less frequently than once each year—

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) an identification of any classes whose rates are not summarized.

Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulated electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

(g) Procedures for termination of electric service

The procedures for termination of service referred to in section 2623(b)(4) of this title are procedures prescribed by the State regulatory authority (with respect to electric utilities for which it has ratemaking authority) or by the nonregulated electric utility which provide that—

(1) no electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility, and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(h) Advertising

(1) For purposes of this section and section 2623(b)(5) of this title—

(A) The term "advertising" means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(B) The term "political advertising" means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term "promotional advertising" means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility's service.

(2) For purposes of this subsection and section 2623(b)(5) of this title, the terms "political advertising" and "promotional advertising" do not include—

(A) advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

(B) advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act [42 U.S.C. 8211 et seq.],

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility,

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

(Pub. L. 95–617, title I, § 115, Nov. 9, 1978, 92 Stat. 3125.)

REFERENCES IN TEXT

The National Energy Conservation Policy Act, referred to in subsec. (h)(2)(B), is Pub. L. 95–619, Nov. 9, 1978, 92 Stat. 3208, as amended. Part 1 of title II of the National Energy Conservation Policy Act is classified generally to part A (§ 8211 et seq.) of subchapter II of chapter 91 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 8201 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2621, 2623 of this title.

§ 2626. Reports respecting standards

(a) State authorities and nonregulated utilities

Not later than one year after November 9, 1978, and annually thereafter for ten years, each State regulatory authority (with respect to each State regulated electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall report to the Secretary, in such manner as the Secretary shall prescribe, respecting its consideration of the standards established by sections 2621(d) and 2623(b) of this title. Such report shall include a summary of the determinations made and actions taken with respect to each such standard on a utility-by-utility basis.

(b) Secretary

Not later than eighteen months after November 9, 1978, and annually thereafter for ten years, the Secretary shall submit a report to the President and the Congress containing—

(1) a summary of the reports submitted under subsection (a) of this section,

(2) his analysis of such reports, and

(3) his actions under this chapter, and his recommendations for such further Federal actions, including any legislation, regarding retail electric utility rates (and other practices) as may be necessary to carry out the purposes of this chapter.

(Pub. L. 95–617, title I, § 116, Nov. 9, 1978, 92 Stat. 3128.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), in the original read "this title", meaning title I of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

§ 2627. Relationship to state law

(a) Revenue and rate of return

Nothing in this chapter shall authorize or require the recovery by an electric utility of revenues, or of a rate of return, in excess of, or less than, the amount of revenues or the rate of return determined to be lawful under any other provision of law.

(b) State authority

Nothing in this chapter prohibits any State regulatory authority or nonregulated electric utility from adopting, pursuant to State law, any standard or rule affecting electric utilities which is different from any standard established by this subchapter.

(c) Federal agencies

With respect to any electric utility which is a Federal agency, and with respect to the Tennessee Valley Authority when it is treated as a State regulatory authority as provided in section 2602(17) of this title, any reference in section 2621 or 2623 of this title to State law shall be treated as a reference to Federal law.

(Pub. L. 95–617, title I, § 117, Nov. 9, 1978, 92 Stat. 3128.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), in the original read "this title", meaning title I of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

SUBCHAPTER III—INTERVENTION AND JUDICIAL REVIEW

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2613 of this title.

§ 2631. Intervention in proceedings

(a) Authority to intervene and participate

In order to initiate and participate in the consideration of one or more of the standards established by subchapter II of this chapter or other concepts which contribute to the achievement of the purposes of this chapter, the Secretary, any affected electric utility, or any electric consumer of an affected electric utility may intervene and participate as a matter of right in any ratemaking proceeding or other appropriate regulatory proceeding relating to rates or rate design which is conducted by a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by a nonregulated electric utility.

(b) Access to information

Any intervenor or participant in a proceeding described in subsection (a) of this section shall have access to information available to other parties to the proceeding if such information is relevant to the issues to which his intervention or participation in such proceeding relates. Such information may be obtained through

reasonable rules relating to discovery of information prescribed by the State regulatory authority (in the case of proceedings concerning electric utilities for which it has ratemaking authority) or by the nonregulated electric utility (in the case of a proceeding conducted by a nonregulated electric utility).

(c) Effective date; procedures

Any intervention or participation under this section, in any proceeding commenced before November 9, 1978, but not completed before such date, shall be permitted under this section only to the extent such intervention or participation is timely under otherwise applicable law.

(Pub. L. 95-617, title I, § 121, Nov. 9, 1978, 92 Stat. 3128.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), in the original read "this title", meaning title I of Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2621, 2622, 2633, 2634 of this title.

§ 2632. Consumer representation

(a) Compensation for costs of participation or intervention

(1) If no alternative means for assuring representation of electric consumers is adopted in accordance with subsection (b) of this section and if an electric consumer of an electric utility substantially contributed to the approval, in whole or in part, of a position advocated by such consumer in a proceeding concerning such utility, and relating to any standard set forth in subchapter II of this chapter, such utility shall be liable to compensate such consumer (pursuant to paragraph (2)) for reasonable attorneys' fees, expert witness fees, and other reasonable costs incurred in preparation and advocacy of such position in such proceeding (including fees and costs of obtaining judicial review of any determination made in such proceeding with respect to such position).

(2) A consumer entitled to fees and costs under paragraph (1) may collect such fees and costs from an electric utility by bringing a civil action in any State court of competent jurisdiction, unless the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility) or nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has adopted a reasonable procedure pursuant to which such authority or nonregulated electric utility—

(A) determines the amount of such fees and costs, and

(B) includes an award of such fees and costs in its order in the proceeding.

(3) The procedure adopted by such State regulatory authority or nonregulated utility under paragraph (2) may include a preliminary proceeding to require that—

(A) as a condition of receiving compensation under such procedure such consumer demonstrate that, but for the ability to receive such award, participation or intervention in such proceeding may be a significant financial hardship for such consumer, and

(B) persons with the same or similar interests have a common legal representative in the proceeding as a condition to receiving compensation.

(b) Alternative means

Compensation shall not be required under subsection (a) of this section if the State, the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility), or the nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has provided an alternative means for providing adequate compensation to persons—

(1) who have, or represent, an interest—

(A) which would not otherwise be adequately represented in the proceeding, and

(B) representation of which is necessary for a fair determination in the proceeding, and

(2) who are, or represent an interest which is, unable to effectively participate or intervene in the proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participating or intervening in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

(c) Transcripts

The State regulatory authority or nonregulated electric utility, as the case may be, shall make transcripts of the proceeding available, at cost of reproduction, to parties or intervenors in any ratemaking proceeding, or other regulatory proceeding relating to rates or rate design, before a State regulatory authority or nonregulated electric utility.

(d) Federal agencies

Any claim under this section against any Federal agency shall be subject to the availability of appropriated funds.

(e) Rights under other authority

Nothing in this section affects or restricts any rights of any participant or intervenor in any proceeding under any other applicable law or rule of law.

(Pub. L. 95-617, title I, § 122, Nov. 9, 1978, 92 Stat. 3129.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2621 of this title.

§ 2633. Judicial review and enforcement

(a) Limitation of Federal jurisdiction

Notwithstanding any other provision of law, no court of the United States shall have jurisdiction over any action arising under any provision of subchapter I or II of this chapter or of this subchapter except for—

(1) an action over which a court of the United States has jurisdiction under subsection (b) or (c)(2) of this section; and

(2) review of any action in the Supreme Court of the United States in accordance with sections 1257 and 1258 of title 28.

(b) Enforcement of intervention right

(1) The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene and participate under section 2631(a) of this title, and such court shall have jurisdiction to grant appropriate relief.

(2) If any electric utility or electric consumer having a right to intervene under section 2631(a) of this title is denied such right by any State court, such electric utility or electric consumer may bring an action in the appropriate United States district court to require the State regulatory authority or nonregulated electric utility to permit such intervention and participation, and such court shall have jurisdiction to grant appropriate relief.

(3) Nothing in this subsection prohibits any person bringing any action under this subsection in a court of the United States from seeking review and enforcement at any time in any State court of any rights he may have with respect to any motion to intervene or participate in any proceeding.

(c) Review and enforcement

(1) Any person (including the Secretary) may obtain review of any determination made under subchapter I or II of this chapter or under this subchapter with respect to any electric utility (other than a utility which is a Federal agency) in the appropriate State court if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if State law otherwise permits such review. Any person (including the Secretary) may bring an action to enforce the requirements of this chapter in the appropriate State court, except that no such action may be brought in a State court with respect to a utility which is a Federal agency. Such review or action in a State court shall be pursuant to any applicable State procedures.

(2) Any person (including the Secretary) may obtain review in the appropriate court of the United States of any determination made under subchapter I or II of this chapter or this subchapter by a Federal agency if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if otherwise applicable law permits such review. Such court shall have jurisdiction to grant appropriate relief. Any person (including the Secretary) may bring an action to enforce the requirements of subchapter I or II of this chapter or this subchapter with respect to any Federal agency in the appropriate court of the United States and such court shall have jurisdiction to grant appropriate relief.

(3) In addition to his authority to obtain review under paragraph (1) or (2), the Secretary may also participate as an amicus curiae in any review by any court of an action arising under the provisions of subchapter I or II of this chapter or this subchapter.

(d) Other authority of the Secretary

Nothing in this section prohibits the Secretary from—

(1) intervening and participating in any proceeding, or

(2) intervening and participating in any review by any court of any action

under section 6804 of title 42.

(Pub. L. 95–617, title I, § 123, Nov. 9, 1978, 92 Stat. 3130.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (c)(1), in the original read "this title", meaning title I of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824a–3, 2621, 2623 of this title.

§ 2634. Prior and pending proceedings

For purposes of subtitles subchapters I and II of this chapter, and this subchapter, proceedings commenced by State regulatory authorities (with respect to electric utilities for which it has ratemaking authority) and nonregulated electric utilities before November 9, 1978, and actions taken before such date in such proceedings shall be treated as complying with the requirements of subchapters I and II of this chapter, and this subchapter if such proceedings and actions substantially conform to such requirements. For purposes of subchapters I and II of this chapter, and this subchapter, any such proceeding or action commenced before November 9, 1978, but not completed before such date, shall comply with the requirements of subchapters I and II of this chapter, and this subchapter, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date, except as otherwise provided in section 2631(c) of this title.

(Pub. L. 95–617, title I, § 124, Nov. 9, 1978, 92 Stat. 3131.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2622, 2624 of this title.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§ 2641. Voluntary guidelines

The Secretary may prescribe voluntary guidelines respecting the standards established by sections 2621(d) and 2623(b) of this title. Such guidelines may not expand the scope or legal effect of such standards or establish additional standards respecting electric utility rates.

(Pub. L. 95–617, title I, § 131, Nov. 9, 1978, 92 Stat. 3131.)

§ 2642. Responsibilities of Secretary of Energy

(a) Authority

The Secretary may periodically notify the State regulatory authorities, and electric utilities identified pursuant to section 2612(c) of this title, of—

(1) load management techniques and the results of studies and experiments concerning load management techniques;

(2) developments and innovations in electric utility ratemaking throughout the United States, including the results of studies and experiments in rate structure and rate reform;

(3) methods for determining cost of service; and

(4) any other data or information which the Secretary determines would assist such authorities and utilities in carrying out the provisions of this chapter.

(b) Technical assistance

The Secretary may provide such technical assistance as he determines appropriate to assist the State regulatory authorities in carrying out their responsibilities under subchapter II of this chapter and as is requested by any State regulatory authority relating to the standards established by subchapter II of this chapter.

(c) Appropriations

There are authorized to be appropriated to carry out the purposes of subsection (b) of this section not to exceed $1,000,000 for each of the fiscal years 1979 and 1980.

(Pub. L. 95-617, title I, § 132, Nov. 9, 1978, 92 Stat. 3131.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4), in the original read "this title", meaning title I of Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

§ 2643. Gathering information on costs of service

(a) Information required to be gathered

Each electric utility shall periodically gather information under such rules (promulgated by the Commission) as the Commission determines necessary to allow determination of the costs associated with providing electric service. For purposes of this section, and for purposes of any consideration and determination respecting the standard established by section 2621(d)(2) of this title, such costs shall be separated, to the maximum extent practicable, into the following components: customer cost component, demand cost component, and energy cost component. Rules under this subsection shall include requirements for the gathering of the following information with respect to each electric utility—

(1) the costs of serving each electric consumer class, including costs of serving different consumption patterns within such class, based on voltage level, time of use, and other appropriate factors;

(2) daily kilowatt demand load curves for all electric consumer classes combined representative of daily and seasonal differences in demand, and daily kilowatt demand load curves for each electric consumer class for which there is a separate rate, representative of daily and seasonal differences in demand;

(3) annual capital, operating, and maintenance costs—

(A) for transmission and distribution services, and

(B) for each type of generating unit; and

(4) costs of purchased power, including representative daily and seasonal differences in the amount of such costs.

Such rules shall provide that information required to be gathered under this section shall be presented in such categories and such detail as may be necessary to carry out the purposes of this section.

(b) Commission rules

The Commission shall, within 180 days after November 9, 1978, by rule, prescribe the methods, procedure, and format to be used by electric utilities in gathering the information described in this section. Such rules may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, in cases where such utility or utilities show and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments, that gathering such information is not likely to carry out the purposes of this section. The Commission shall periodically review such findings and may revise such rules.

(c) Filing and publication

Not later than two years after November 9, 1978, and periodically, but not less frequently than every two years thereafter, each electric utility shall file with—

(1) the Commission, and

(2) any State regulatory authority which has ratemaking authority for such utility,

the information gathered pursuant to this section and make such information available to the public in such form and manner as the Commission shall prescribe. In addition, at the time of application for, or proposal of, any rate increase, each electric utility shall make such information available to the public in such form and manner as the Commission shall prescribe. The two-year period after November 9, 1978, specified in this subsection may be extended by the Commission for a reasonable additional period in the case of any electric utility for good cause shown.

(d) Enforcement

For purposes of enforcement, any violation of a requirement of this section shall be treated as a violation of a provision of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.] enforceable under section 12 of such Act [15 U.S.C. 797] (notwithstanding any expiration date in such Act) except that in applying the provisions of such section 12 any reference to the Federal Energy Administrator shall be treated as a reference to the Commission.

(Pub. L. 95-617, title I, § 133, Nov. 9, 1978, 92 Stat. 3132.)

REFERENCES IN TEXT

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (d), is Pub. L. 93-319, June 22, 1974, 88 Stat. 246, as amended, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classifi-

cation of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables.

§ 2644. Relationship to other authority

Nothing in this chapter shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law.

(Pub. L. 95-617, title I, § 134, Nov. 9, 1978, 92 Stat. 3133.)

REFERENCES IN TEXT

This chapter, referred to in text, in the original read "this title", meaning title I of Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of this title to the Code, see Tables.

§ 2645. Utility regulatory institute

(a) Matching grants

The Secretary may make grants under this section to an institute established by the National Association of Regulatory Utility Commissioners to enable such institute to—

(1) conduct research on electric and gas utility regulatory policy issues,

(2) develop data processing and retrieval methods for electric and gas utility ratemaking, and

(3) perform other functions directly related to assisting State regulatory authorities in carrying out their functions under State law and this Act.

(b) Federal share

Grants under this section shall not be used to provide more than the following percentages of the cost to the institute of carrying out the activities specified in subsection (a) of this section:

(1) 80 percent for the fiscal year 1979; and

(2) 60 percent for the fiscal year 1980.

The remaining amounts expended by the institute may not be provided from Federal sources.

(c) Restrictions

Grants under this section may not be made subject to terms and conditions other than those the Secretary deems necessary for purposes of administering this section and for purposes of assuring that—

(1) all information gathered by the institute is available to the Secretary, the Commission, and the public, and

(2) no portion of any such grant is used to support or oppose any legislative proposal except by means of testimony by representatives of the institute provided by invitation to a committee of Congress or of a State legislature.

(d) Authorization of appropriations

There is authorized to be appropriated not more than $2,000,000 for each of the fiscal years 1979 and 1980 for purposes of making grants under this section. No amounts may be appropriated for any fiscal year after the fiscal year 1980 to carry out the purposes of this section without a specific authorization of Congress.

(Pub. L. 95-617, title VI, § 603, Nov. 9, 1978, 92 Stat. 3165.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(3), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

CODIFICATION

This section was not enacted as part of Title I of Pub. L. 95-617 which comprises this chapter.

CHAPTER 47—SMALL HYDROELECTRIC POWER PROJECTS [NEW]

Sec.
2701. Establishment of program.
2702. Loans for feasibility studies.
(a) Loan authority.
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§ 2701. Establishment of program

The Secretary shall establish a program in accordance with this chapter to encourage municipalities, electric cooperatives, industrial development agencies, nonprofit organizations, and other persons to undertake the development of small hydroelectric power projects in connection with existing dams which are not being used to generate electric power.

(Pub. L. 95-617, title IV, § 401, Nov. 9, 1978, 92 Stat. 3154.)

§ 2702. Loans for feasibility studies

(a) Loan authority

The Secretary, after consultation with the Commission, is authorized to make a loan to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person to assist such person in defraying up to 90 percent of the costs of—

(1) studies to determine the feasibility of undertaking a small hydroelectric power project at an existing dam or dams and

(2) preparing any application for a necessary license or other Federal, State, and local approval respecting such a project at an existing dam or dams and of participating in any administrative proceeding regarding any such application.

(b) Cancellation

The Secretary may cancel the unpaid balance and any accrued interest on any loan granted pursuant to this section if he determines on the basis of the study that the small hydroelectric power project would not be technically or economically feasible.

(Pub. L. 95-617, title IV, § 402, Nov. 9, 1978, 92 Stat. 3154.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2704, 2707 of this title.

§ 2703. Loans for project costs

(a) Authority

The Secretary is authorized to make loans to any municipality, electric cooperative, industrial development agency, nonprofit organization, or other person of up to 75 percent of the project costs of a small hydroelectric power project. No such loan may be made unless the Secretary finds that—

(1) the project will be constructed in connection with an existing dam or dams,

(2) all licenses and other required Federal, State, and local approvals necessary for construction of the project have been issued,

(3) the project will have no significant adverse environmental effects, including significant adverse effects on fish and wildlife, on recreational use of water, and on stream flow, and

(4) the project will not have a significant adverse effect on any other use of the water used by such project.

The Secretary may make a commitment to make a loan under this subsection to an applicant who has not met the requirements of paragraph (2), pending compliance by such applicant with such requirements. Such commitment shall be for period [1] of not to exceed 3 years unless the Secretary, in consultation with the Commission, extends such period for good cause shown. Notwithstanding any such commitment, no such loan shall be made before such person has complied with such requirements.

(b) Preference

The Secretary shall give preference to applicants under this section who do not have available alternative financing which the Secretary deems appropriate to carry out the project and whose projects will provide useful information as to the technical and economic feasibility of—

(1) the generation of electric energy by such projects, and

(2) the use of energy produced by such projects.

(c) Information

Every applicant for a license for a small hydroelectric power project receiving loans pursuant to this section shall furnish the Secretary with such information as the Secretary may require regarding equipment and services proposed to be used in the design, construction, and operation of such project. The Secretary shall have the right to forbid the use in such project of any equipment or services he finds inappropriate for such project by reason of cost, performance, or failure to carry out the purposes of this section. The Secretary shall make information which he obtains under this subsection available to the public, other than information described as entitled to confidentiality under section 796(d) of title 15.

(d) Joint participation

In making loans for small hydroelectric power projects under this section, the Secretary shall encourage joint participation, to the extent permitted by law, by applicants eligible to receive loans under this section with respect to the same project.

(Pub. L. 95-617, title IV, § 403, Nov. 9, 1978, 92 Stat. 3155.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2704, 2707 of this title.

§ 2704. Loan rates and repayment

(a) Interest

Each loan made pursuant to this chapter shall bear interest at the discount or interest rate used at the time the loan is made for water resources planning projects under section 1962d-17 of title 42. Each such loan shall be for such term, as the Secretary deems appropriate, but not in excess of—

(1) 10 years (in the case of a loan under section 2702 of this title) or

(2) 30 years (in the case of a loan under section 2703 of this title).

(b) Repayments

Amounts repaid on loans made pursuant to this chapter shall be deposited into the United States Treasury as miscellaneous receipts.

(Pub. L. 95-617, title IV, § 404, Nov. 9, 1978, 92 Stat. 3155.)

REFERENCES IN TEXT

In subsec. (a), "section 1962d-17 of Title 42" read in the original "section 80 of the Water Resources Development Act of 1974 (42 U.S.C. 1962-17(a))".

§ 2705. Simplified and expeditious licensing procedures

(a) Establishment of program

The Commission shall establish, in such manner as the Commission deems appropriate, consistent with the applicable provisions of law, a program to use simple and expeditious licensing procedures under the Federal Power Act [16 U.S.C. 791a et seq.] for small hydroelectric power projects in connection with existing dams.

(b) Prerequisites

Before issuing any license under the Federal Power Act [16 U.S.C. 791a et seq.] for the construction or operation of any small hydroelectric power project the Commission—

(1) shall assess the safety of existing structures in any proposed project (including possible consequences associated with failure of such structures), and

(2) shall provide an opportunity for consultation with the Council on Environmental Quality and the Environmental Protection Agency with respect to the environmental effects of such project.

Nothing in this subsection exempts any such project from any requirement applicable to any

[1] So in original. Probably should be "for a period".

such project under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.], the Fish and Wildlife Coordination Act [16 U.S.C. 661 et seq.], the Endangered Species Act [16 U.S.C. 1531 et seq.], or any other provision of Federal law.

(c) Fish and wildlife facilities

The Commission shall encourage applicants for licenses for small hydroelectric power projects to make use of public funds and other assistance for the design and construction of fish and wildlife facilities which may be required in connection with any development of such project.

(Pub. L. 95-617, title IV, § 405, Nov. 9, 1978, 92 Stat. 3156.)

REFERENCES IN TEXT

The Federal Power Act, referred to in subsecs. (a) and (b) is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (b), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, as amended, which is classified generally to chapter 55 (§ 4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Fish and Wildlife Coordination Act, referred to in subsec. (b), is act Mar. 10, 1934, ch. 55, 48 Stat. 401, as amended, which is classified generally to sections 661 to 666c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables.

The Endangered Species Act, referred to in subsec. (b), probably means the Endangered Species Act of 1973, Pub. L. 93-205, Dec. 28, 1973, 87 Stat. 884, as amended, which is classified generally to chapter 35 (§ 1531 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1531 of this title and Tables.

§ 2706. New impoundments

Nothing in this chapter authorizes (1) the loan of funds for construction of any new dam or other impoundment, or (2) the simple and expeditious licensing of any such new dam or other impoundment.

(Pub. L. 95-617, title IV, § 406, Nov. 9, 1978, 92 Stat. 3156.)

§ 2707. Authorizations

There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980, not to exceed $10,000,000 for loans to be made pursuant to section 2702 of this title, such funds to remain available until expended. There are hereby authorized to be appropriated for each of the fiscal years ending September 30, 1978, September 30, 1979, September 30, 1980, not to exceed $100,000,000 for loans to be made pursuant to section 2703 of this title, such funds to remain available until expended.

(Pub. L. 95-617, title IV, § 407, Nov. 9, 1978, 92 Stat. 3156.)

§ 2708. Definitions

For purposes of this chapter, the term—

(1) "small hydroelectric power project" means any hydroelectric power project which is located at the site of any existing dam, which uses the water power potential of such dam, and which has not more than 15,000 kilowatts of installed capacity;

(2) "electric cooperative" means any cooperative association eligible to receive loans under section 904 of title 7;

(3) "industrial development agency" means any agency which is permitted to issue obligations the interest on which is excludable from gross income under section 103 of title 26;

(4) "project costs" means the cost of acquisiiton[1] or construction of all facilities and services and the cost of acquisition of all land and interests in land used in the design and construction and operation of a small hydroelectric power project;

(5) "nonprofit organization" means any organization described in section 501(c)(3) or 501(c)(4) of title 26 and exempt from tax under section 501(a) of title 26 (but only with respect to a trade or business carried on by such organization which is not an unrelated trade or business, determined by applying section 513(a) of title 26 to such organization);

(6) "existing dam" means any dam, the construction of which was completed or on before April 20, 1977, and which does not require any construction or enlargement of impoundment structures (other than repairs or reconstruction) in connection with the installation of any small hydroelectric power project;

(7) "municipality" has the meaning provided in section 796 of this title; and

(8) "person" has the meaning provided in section 796 of this title.

(Pub. L. 95-617, title IV, § 408, Nov. 9, 1978, 92 Stat. 3156.)

[1] So in original. Probably should be "acquisition".